



**BOARD OF SELECTMEN**

**CALENDAR**

**FOR**

**THURSDAY, APRIL 17, 2014**

**SELECTMEN'S HEARING ROOM**

- Betsy DeWitt – Chairman
- Nancy A. Daly
- Richard W. Benka
- Kenneth M. Goldstein
- Neil A. Wishinsky
- Melvin A. Kleckner –  
Town Administrator

1. **PROPOSED EXECUTIVE SESSION**  
**LEASE AGREEMENT**  
  
5:00 P.M.. Special Counsel Jennifer Dopazo Gilbert will appear relative to the lease of real property.
2. **PROPOSED EXECUTIVE SESSION**  
**LITIGATION**  
  
Acting Town Counsel Joslin Murphy will appear to discuss strategies relative to Litigation.
3. **PROPOSED EXECUTIVE SESSION**  
**COLLECTIVE BARGAINING**  
  
Public Works Commissioner Andrew Pappastergion will appear to discuss Collective Bargaining negotiation strategies.
4. **ANNOUNCEMENTS**  
  
6:30 P.M. Selectmen to announce recent and/or upcoming Events of Community Interest.
5. **SELECTMEN UPDATES**  
  
Reports by individual Selectmen on activities related to carrying out the responsibilities of the Board.
6. **PUBLIC COMMENT**

**Public Comment period for citizens who requested to speak to the Board regarding Town issues not on the Calendar.**

*Public Comment Guidelines, adopted by the Board in May 2007, and amended May 14, 2013, are that (1) up to 15 minutes at the beginning of each meeting may be open to the public for public comment. (2) Each speaker is limited to 3 minutes for comment. (3) Each speaker may comment once every four meetings on a different topic. (4) Members of the Board will not comment or respond, unless there is a question of clarification. (5) Speakers must notify the Selectmen's Office (617)730-2211 by Friday to sign up for the next Tuesday's meeting so that we can schedule time.*

**7.**

**MISCELLANEOUS**

Approval of miscellaneous items, licenses, vouchers, and contracts.

- A. Question of approving the minutes of April 1 and 8, 2014.**
- B. Question of accepting a gift in the amount of \$500 from Coldwell Banker in connection with the Town Hall Walls program.**
- C. Question of approving and executing a Contract in connection with the "Roof Replacement Project" in the amount of \$1,015.00 with JD Rivet & Company of Springfield, MA**
- D. Question of accepting a Grant in the amount of \$144,029, from the Massachusetts Department of Transportation in connection with the Winter Rapid Recovery Road Program.**
- E. Question of approving and executing a Chapter 90 Request in the amount of \$1,353,624.80 and Environmental Punch list in connection with the "Mill and Overlay of eight (8) Streets and Replacement of Selected Concrete Sidewalks".**
- F. Question of awarding and executing Contract No. PW/14-06 "Waldstein Playground Improvements" in the amount of \$1,397,528.50 to Quirk Construction Corp. of Georgetown, MA.**
- G. Question of awarding and executing Contract No. PW/14-07 "Daniel J. Warren Field/Eliot Playground Improvements" (Rebid) in the amount of \$788,176.20 with NELM Corp. of Carver, MA.**
- H. Question of approving the following CDBG transfers in order to fund the Amendment to Contract PW/12-06 "Design and Engineering Services - Pedestrian/Bicycle Crossing at Route 9:**

**From:**

**Comprehensive Planning**

<b>1804 G003 510101</b>	<b>\$ 8,822.35</b>
<b>1804 G004 510101</b>	<b>\$26,652.21</b>
<b>1804 G005 510101</b>	<b>\$ 1,379.55</b>

1804 G008 510101                      \$ 1,780.80

**Handicapped Accessibility**

1818 G000 6C0010                      \$ 1,626.51

1818 G001 6C0011                      \$ 6,000.00

**Tree Removal and Replacement**

1819 G005 6C001                      \$14,177.00

**Col. Floyd Public Improvements**

1807 G006 6C0018                      \$ 5,393.75

**Juniper Playground**

1842 G008 6C0007                      \$ 5,247.46

**TO:**

**Pedestrian/Bicycle Crossing Rt.9**

1847 G003 524003                      \$ 8,822.35

1847 G004 524003                      \$26,652.21

1847 G005 524003                      \$ 1,379.55

1847 G008 524003                      \$ 1,780.80

1847 G000 524003                      \$ 1,626.51

1847 G001 524003                      \$ 6,000.00

1847 G005 524003                      \$14,177.00

1847 G006 524003                      \$ 5,393.75

1847 G008 524003                      \$ 5,247.46

- I. Question of approving a Contract Amendment to Contract No. PW/12-06 "Design and Engineering Services - Pedestrian/Bicycle Crossing at Route 9" in the amount of \$123,427.93 for work to be performed by Greenman-Pederson.
- J. Question of approving and executing a Contract Amendment #4 in the amount of \$139,376.00 with Flansburgh Architects in connection with the "Lawrence School Classroom Addition Project".
- K. Question of approving a Contract in the amount of \$79,500 with A.M. Fogarty & Associates for Cost Estimating Services in connection with the "Devotion School Project".
- L. Question of approving the following Changes Orders:

**Unified Arts Building Envelope Repairs**

**Titan Roofing, Inc.**

**Change Order #6**

**\$15,075.00**

**Life Safety Improvements - Fire Stations 1&4**

**System Electrical Services, Inc.**

**Change Order #1**

**\$703.00**

**M.**

**Question of granting a temporary Wine and Malt beverages license to Boston University in connection with the following events:**

**Banquet (School of Hospitality)**

**928 Commonwealth Avenue**

**April 30, 2014**

**4:30 p.m. - 6:00 p.m.**

**WBUR on Tap (WBUR)**

**890 Commonwealth Avenue**

**May 1, 2014**

**5:30 p.m. - 7:00 p.m.**

**N.**

**Question of granting the following temporary license to Pine Manor College in connection with events to be held at 400 Heath Street:**

**Temporary All Kinds of Alcoholic Beverages**

**B'nai Mitzvah**

**May 24, 2014**

**6:30 p.m. - 10:30 p.m.**

**Wedding**

**June 1, 2014**

**3:45 p.m. - 7:30 p.m.**

**Temporary Wine and Malt Beverages**

**Bar Mitzvah**

**June 7, 2014**

**1:00 p.m. - 4:00 p.m.**

**8.**

**CALENDAR**

**Review and potential vote on Calendar Item #s 9 thru 20.**

**9.**

**TOWN COUNSEL**

**Question of making an appointment to the position of Town Counsel.**



**10. RESERVE FUND TRANSFER**

Question of approving and transmitting to the Advisory the Committee the request of the Library Director for a Reserve Fund Transfer in the amount of \$19,000 for utilities.

**11. POLICE PERSONNEL**

Question of authorizing the filling of the following vacancies in the Police Department:

Parking Meter Money Collector  
Public Safety Dispatcher

**12. FY2015 FINANCIAL PLAN**

Review of the following FY2015 Departmental Budgets:

Capital Improvements Program (CIP)

**13. SECOND HAND MOTOR VEHICLES LICENSE**

7:30 P.M. Question of approving the application of JAJT International, Josh Anyaosah, owner for a license to Buy, Sell, Exchange or Assemble Second-Hand Motor Vehicles or Parts Thereof at 7 Leverett Street (office only).

**14. COMMON VICTUALLER LICENSE**

Question of approving the application of Peet's Operating Company, Inc., d/b/a Peet's Coffee & Tea, David Burwick and Henning Anderson, CEO's for a Common Victualler license at 1327 Beacon Street.

**15. COMMON VICTUALLER LICENSE**

Continued hearing on the application of Peet's Operating Company, Inc., d/b/a Peet's Coffee & Tea, David Burwick and Henning Anderson, CEO's for a Common Victualler license at 1154 Boylston Street.

a. Question of approving the application of Peet's Operating Company, Inc., d/b/a Peet's Coffee & Tea, David Burwick and Henning Anderson, CEO's

**holder of a Common Victualler License at  
1154 Boylston Street for an Entertainment license  
to include Radio and Taped Music.**

**16.**

**COMMON VICTUALLER LICENSE**  
**TRANSFER OF ALL KINDS OF ALCOHOL LICENSE**

**8:00 P.  
M.**

**Question of approving the application of Sivika Restaurant  
Group, LLC, d/b/a Pon's Kitchen, Sivika Hunter,  
Managing Member for a Common Victualler license at  
213 Washington Street.**

- a. Question of approving the application of Sivika  
Restaurant Group, LLC, d/b/a Pon's Kitchen,  
Sivika Hunter, Managing Member, holder of  
a Common Victualler License at 213  
Washington Street for an Entertainment  
License to include TV and Taped Music.**
- b. Public Hearing on the application of  
Odessa Restaurant Holding, Inc.,  
d/b/a Stoli Restaurant & Bar, Farit  
Dinov, Owner, holder of an All Kinds  
of Alcoholic Beverages License as a  
Common Victualler at 213 Washington Street, for a  
transfer of said license to Sivika Restaurant Group,  
LLC, d/b/a Pon's Kitchen, Sivika Hunter,  
Managing Member.**
- c. Question of approving the application of Sivika  
Restaurant Group, LLC, d/b/a Pon's Kitchen  
holder on an All Kinds of Alcoholic Beverages  
License as a Common Victualler at 213  
Washington Street appointing Sivika Hunter  
as Manager.**

**17.**

**WARRANT ARTICLES**

**Public Hearing and possible vote on the following Warrant  
Articles for the May 27, 2014 Annual Town Meeting:**

**Art. #      Title**

10. **Establishment of Diversity, Inclusion and Community Relations Commission and Department.(Selectmen's Diversity, Inclusion and Affirmative Action Committee).**
31. **Resolution Relative to Non-Discrimination on the Basis of Gender Identity and Expression. (Petition of Alex Coleman)**
11. **Greater Toxteth Neighborhood Conservation District. (Neighborhood Conservation District Commission)**

18. **WARRANT ARTICLES**

**Further review and vote on the following Warrant Articles for the May 27, 2014 Annual Town Meeting:**

<b><u>Art. No.</u></b>	<b><u>Title</u></b>
7.	<b>FY14 Budget Amendments (Selectmen)</b>
12.	<b>Noise Control By-Law Amendments (Lebow)</b>
20.	<b>Zoning - 273,277, and 281 Mason Terrace from S-7 to T-6 (Simkovitz and Budrene-Kae)</b>
22.	<b>Zoning - Self Service Gas Stations/Convenience Stores (Planning)</b>

19. **WARRANT ARTICLE**

**Possible reconsideration of the following Warrant Article for the May 27, 2014 Annual Town Meeting:**

<b><u>Art No.</u></b>	<b><u>Title</u></b>
13.	<b>No-smoking zone around Brookline High School (Bermel)</b>

20. **MARIJUANA REGULATIONS**  
**SALE OF ALCOHOLIC BEVERAGES REGULATIONS**  
**PREPARED FOOD SALES LICENSING REGULATIONS**

**Question of approving the following regulations:**

- 1. Town Registered Marijuana Dispensary (RDM) Regulations**
- 2. Proposed changes to the Town's Sales of Alcoholic Beverages Regulations**
- 3. Proposed changes to the Town's Prepare Food Sales Licensing Regulations**

**21. ELECTION WARRANT**

**Question of executing the Warrant for the May 6, 2014 Annual Town Election.**

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone (617) 730-2328; TDD (617) 730-2327; or e-mail at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov)*

# Town Of Brookline

## Contract Coding Approval Form

Department: BuildingVendor Name : J.D. RivetVendor Number : \_\_\_\_\_ Amount of Contract \$ 1,015,000Contract # : B13-003

Purpose of Contact:

	Description:
	<u>THREE Building Roof Replacement Project</u>

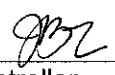
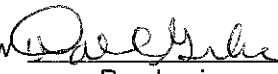
Coding:

Org #	Org Name *	Acct #	Acct Name	Amount
<u>2594C15</u>		<u>6C0002</u>		<u>\$ 786,000</u>
<u>4909EWA</u>		<u>6B0078</u>		<u>\$ 229,000</u>

\* For "K" or "C" accounts, please call it "CIP", preceded by your Dept (e.g., 4909K001 would be "DPW CIP").

Department Head:  Date 4.7.14

### Comptroller and Purchasing Approvals

Funds Available / Codes Correct   
Comptroller4/7/14  
Date Approved by ComptrollerComplies with Appropriate Procurement Law   
(MGL ch 149, ch 30 30M, or ch 30B) Purchasing4/7/14  
Date Approved by Purchasing



Russo Barr Associates, Inc.

33 Center Street, 2<sup>nd</sup> Floor  
Burlington, MA 01803

781-273-1537 tel

781-273-1695 fax

April 7, 2014

Mr. Raymond Masak, PE  
Project Manager  
Brookline Building Department  
Brookline Town Hall, 3<sup>rd</sup> Floor  
333 Washington Street  
Brookline, MA 02445

Re: General Bid Review  
Roof Replacement Project  
Main Library, Pierce Primary School &  
Water Department Garage  
Brookline, Massachusetts  
RBA Project No. 2013052.00

Mr. Masak:

We have reviewed the General Bids for the referenced project that were received on April 2, 2014. We offer the following information:

(12) General Bids were received and are summarized on the attached bid summary sheet. Low bids are highlighted in yellow.

The low bid for the Base Bid only is Gibson's Roofs and the low bidder for the Base Bid and any of the two (2) Alternates is J. D. Rivet & Co. Inc. We understand that the Town's budget will support at least the Base Bid plus Alternate No. 1. J. D. Rivet & Co. Inc. has submitted proper DCAM certification, a bid bond and a certificate of non-collusion.

We have worked with J. D. Rivet & Co. Inc. on several occasion involving low slope roofs and we find them to be responsible low-sloped roofing contractors. We have attempted to contact many of J. D. Rivet & Co. Inc.'s slate roofing related references and have received positive responses from two (2) references.

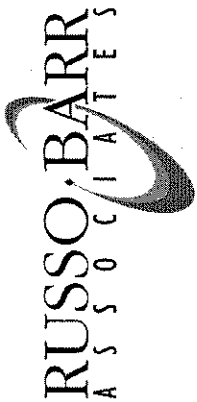
We have contacted Mr. Gary Brown of J. D. Rivet & Co. Inc. and we have confirmed that the scope and general quantities of work included in J. D. Rivet & Co. Inc.'s bid are accurate. Mr. Brown stated that his firm is comfortable with their bid.

Based on the above information, we feel that J. D. Rivet & Co. Inc. has submitted the low, eligible and responsible bid for this project. We recommend that the Base Bid plus any of the Alternates be awarded to J. D. Rivet & Co. Inc.

We trust this information meets your needs at this time. Should you have any questions, please contact me.

Sincerely,

Michael J. Flaherty RRC  
Senior Project Manager  
attachment



**Russo Barr Associates, Inc.**  
 33 Center Street, 2nd Floor  
 Burlington, MA 01803  
 781-273-1537 tel  
 781-273-1695 fax

**GENERAL BID RESULTS**  
**Roof Replacement Project**  
**Brookline Library, Pierce School and Water Department – Brookline, MA**  
 RBA Project Number 2013052.00  
 April 2, 1014 @ 2:00 pm

*Library was not*

*Pierce PM may*

General Bidder	Base Bid Breakdown	Alternate #1 BB + Alt 1	Alternate #2 BB + Alt 1 & 2	Comments
Gibsons Roofs	\$393,000 \$202,100/\$190,900	\$1,750,000 \$2,143,000	\$118,000 \$2,261,000	Low Bidder for Base Bid work only.
MDM Engineering	\$407,000 \$175,000/\$232,000	\$710,000 \$1,117,000	\$24,000 \$1,141,000	
J D Rivet	\$435,000 \$206,000/\$229,000	\$580,000 \$1,015,000	\$74,500 \$1,089,500	Low Bidder for Alternates #1 and 2.
Wayne Roofing	\$468,000 \$198,000/\$270,000	\$600,000 \$1,068,000	\$82,000 \$1,150,000	Bid is rejected due to lack of bid bond.
Capeway Roofing	\$489,800 \$252,600/\$237,200	\$577,800 \$1,067,600	\$86,100 \$1,153,700	
J F Shea	\$492,000 \$258,000/\$234,000	\$580,000 \$1,072,000	\$78,000 \$1,150,000	
Greenwood	\$524,000 \$300,000/\$224,000	\$687,000 \$1,211,000	\$84,000 \$1,295,000	
Rockwell Roofing	\$540,100 \$276,800/\$263,300	\$824,000 \$1,364,100	\$79,700 \$1,443,800	
Stanley Roofing	\$542,500 \$305,900/\$236,600	\$621,000 \$1,163,500	\$100,000 \$1,263,500	
Titan Roofing	\$546,000 \$300,000/\$246,000	\$612,000 \$1,158,000	\$82,000 \$1,240,000	
Reliable Roofing	\$554,000 \$226,175/\$327,825	\$612,000 \$1,166,000	\$93,000 \$1,259,900	
SRC Roofing	\$586,900 \$336,500/\$250,400	\$728,900 \$1,315,800	\$76,000 \$1,391,800	



ALA Document A101

# Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a

STIPULATED SUM

1987 EDITION

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH  
AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.*

*The 1987 Edition of AIA Document A201, General Conditions of the Contract for Construction, is adopted  
in this document by reference. Do not use with other general conditions unless this document is modified.*

*This document has been approved and endorsed by The Associated General Contractors of America.*

## AGREEMENT

made as of the \_\_\_\_\_ day of \_\_\_\_\_ In the year of \_\_\_\_\_

### BETWEEN the Owner:

(Name and address)

Town of Brookline represented by the Brookline Building Commission  
333 Washington Street  
Brookline, MA 02445

### and the Contractor:

(Name and address)

J.D. Rivet & Co., Inc.  
1635 Page Blvd.  
Springfield, MA 01104

### The Project Is:

(Name and location)

Roof Replacement Project  
Main Library, Pierce Primary School, Water Department Garage  
Town of Brookline Project No.:13-003

### The Architect Is:

(Name and address)

Russo Barr Associates  
33 Center Street, 2<sup>nd</sup> Floor  
Burlington, MA 01803

\_\_\_\_\_

The Owner and Contractor agree as set forth below.

Copyright 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, ©1987 by The American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006. Reproduction of the material herein or substantial quotation of its provisions without written permission of the AIA violates the copyright laws of the United States and will be subject to legal prosecution.



ARTICLE 4  
CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of Dollars (\$ 1,015,000 One million fifteen thousand ), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

*(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)*

4.3 Unit prices, if any, are as follows:

The Unit Prices are as described in Section 01026 Unit Prices

## ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications Issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

## ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

The Contractor shall perform the Work required by the Contract Documents for the roof replacement to 3 Public Buildings. The Contractor shall provide all materials, labor, equipment, tools, machinery, transportation, and services necessary for, and reasonably incidental to, the performance of the Work.

## ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

**3.1** The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

The Work to be performed under the Contract shall commence upon issuance of a 'Notice to Proceed', anticipated to be issued on or about June 1, 2014.

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

**3.2** The Contractor shall achieve Substantial Completion of the entire Work not later than

*(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)*

The Work of the Contract shall be performed according to the Contract Documents including restrictions specified under Section 01010 - SUMMARY OF WORK. The Work to be performed under this Contract shall be substantially completed August 22, 2014.

, subject to adjustments of this Contract Time as provided in the Contract Documents.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)*

**Liquidated Damages:** The General Contractor agrees to pay the Owner for any delay in the Work, the sum of one thousand dollars (\$300.00) per day for every calendar day beyond the above-established date; said amounts to be deemed payment for liquidated and ascertained damages for such delay.

## ARTICLE 5 PROGRESS PAYMENTS

5.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

5.3 Provided an Application for Payment is received by the Architect not later than the \_\_\_\_\_ day of a month, the Owner shall make payment to the Contractor not later than the \_\_\_\_\_ day of the \_\_\_\_\_ month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than \_\_\_\_\_ days after the Architect receives the Application for Payment.

5.4 Each Application for Payment shall be based upon the Schedule of Values submitted by the Contractor in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This Schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the Schedule of Values, less retainage of \_\_\_\_\_ percent ( \_\_\_\_\_ %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

5.6.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of \_\_\_\_\_ percent ( \_\_\_\_\_ %);

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

5.7.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims; and

5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

Delete Paragraphs 5.2 through 5.8 in their entirety, and insert the following:

The provisions of this Article are subject to the provisions of the General Laws of Commonwealth of Massachusetts, Chapter 30 Section 39K, as amended.

## ARTICLE 6 FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 60 days after the issuance of the Architect's final Certificate for Payment, or as follows:

The provisions shall be made in accordance with Chapter 30 Sections 39 F, K of the General Laws of the Commonwealth of Massachusetts, as amended.

## ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

7.3 Other provisions: Refer to attached page

## ARTICLE 8 TERMINATION OR SUSPENSION

8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

7.3 Other Provisions:

Contractor's Representations

The Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and all location conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the Work.

The Contractor has made, or has caused to be made, examinations, investigations, and test and studies of such reports, and related data in addition to those referred to in the paragraph above as the Contractor deems necessary for the performance of the Work at the Contract Price, within the Contract Time, and in accordance with other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.

The Contractor has correlated the results of such observations, examinations, investigations, tests, reports, and data with the Terms and Conditions of the Contract Documents.

The Contractor has given the Architect written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents, and the Written Resolution thereof by the Architect is acceptable to the Contractor.

Miscellaneous

Terms used in this Contract where are defined in Article 1 of Document 007001- GENERAL CONDITIONS (AIA Document A201) and Section 010901, REFERENCES shall have the meaning indicated in the General Conditions; other terms shall have the meanings given them in applicable publications and regulations.

No assignment by a party hereto or any rights under or interest in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are the effect of this restriction may be limited (by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

**ARTICLE 9****ENUMERATION OF CONTRACT DOCUMENTS**

**9.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

**9.1.1** The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A101, 1987 Edition.

**9.1.2** The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.

**9.1.3** The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated , and are as follows:

Document	Title	Pages
----------	-------	-------

**9.1.4** The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:  
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
---------	-------	-------

9.1.5 The Drawings are as follows, and are dated  
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

unless a different date is shown below:

9.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

**9.1.7** Other documents, if any, forming part of the Contract Documents are as follows:

*(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

Delete Paragraphs 9.1.1 through 9.1.7 and insert the following:

The Contract Documents, which comprise the entire contract between the Owner and the Contractor, are attached to this Contract, made a part hereof, and consist of the following:

1. The Contract.
2. Contractor's Bid, including required submittals.
3. Bid, Performance, and Payment Bond.
4. General Conditions (herein stated and in AIA Document A201).
5. Modifications to General Conditions.
6. Supplementary Conditions.
7. Specifications bearing the title: Roof Replacement Project  
Main Library, Pierce Primary School, Water Department Garage
8. AIA Construction Documents, including but not limited to AIA Document A201, A310, A311, selected for use by the Town of Brookline, Massachusetts.
9. All Addenda issued prior to Bid Preparation.
10. Documentation submitted by Contractor during the Performance of the Contract.
11. Contract Drawings.
12. Town of Brookline Standard Signature Sheet, which will be provided separately as Page 9 of this Contract.

There are no Contract Documents other than those listed in this Article. The Contract Documents may only be altered, amended, or repealed by a Modification as defined in Section 1 of the General Conditions.

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER Refer to attached  
Signature Page

CONTRACTOR J.D. Rivet & Co., Inc.

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)



This Agreement entered into as of the day and year first written above

**APPROVAL OF OWNER**

**Board of Selectmen**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Building Commission**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Approved as to Form**

**Town Counsel**

\_\_\_\_\_

**School Committee**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION**

I hereby certify in accordance with Mass. Gen. Laws ch. 44 paragraph 31 C that an appropriation in the amount of the Contract Sum has been made and is available for compensation to the Contractor for the work described in this agreement.

**Town Comptroller**

\_\_\_\_\_



OFFICE OF SELECTMEN

MEMORANDUM

TO: Board of Selectmen  
FROM: Melissa Goff, Assistant Town Administrator *MB*  
RE: **Mass DOT Winter Rapid Recovery Road Program**  
DATE: April 10, 2014

---

The Governor recently announced a special grant to cities and towns to assist with the restoration of roads after the severe winter. MassDOT is issuing a one-time contract with the Town in the amount of \$144,029 for the reimbursement of specific road and road facility repairs resulting from this harsh winter. Funds must be obligated by June 30, 2014 and all projects must be completed by September 30, 2014. There is a strict "use it or lose it" rule.

Recommended Action:

VOTED: To accept a grant in the amount of \$144,029 from the Mass DOT in connection with the Winter Rapid Recovery Road Program.



Deval L. Patrick, Governor  
Richard A. Davey, Secretary & CEO

D. - 2

**massDOT**  
Massachusetts Department of Transportation

April 9, 2014

Ms. Betsy DeWitt, Chairperson  
Town of Brookline  
333 Washington Street  
Brookline, MA 02445

APR - 7 2014

Dear Ms. DeWitt:

Given the extraordinary winter season the Commonwealth faced this past year and the serious toll it took on our roads, we are pleased to announce a "Winter Rapid Recovery Road" program designed to benefit all 351 cities and towns across the Commonwealth. Governor Patrick has approved \$40 million for a statewide program. We are designating \$30 million of that as direct aid, as apportioned via the Chapter 90 formula, for cities and towns and \$10 million for improvements to state roads.

MassDOT is issuing a one-time contract allowing the **Town of Brookline** the draw down of **\$144,029** for the reimbursement of specific purpose road and road facility repairs resulting from this harsh winter. Eligible projects include (a) patching of potholes, cracking and other surface defects, including paving projects, (b) repair and or replacement of signage, guardrail, storm grates, or road striping or painting, or (c) projects identified through written agreement between the MassDOT Highway Division District Office and the **Town of Brookline**.

The contract requires obligation of funds for specific projects no later than June 30, 2014 with the expectation that the projects and all related expenditures are completed by September 30, 2014. There will be no exceptions to the "use it or lose it" provisions of this agreement. The intent of the program is to help cities and towns make immediate and necessary repairs to your roadway network during this construction season.

Should you have any questions, please call Paul Jay at (857) 368-9150 or Maria Conti at (857) 368-9144

Richard A Davey  
Secretary and Chief Executive Officer

Ten Park Plaza, Suite 4160, Boston, MA 02116  
Tel: 857-368-4636, TTY: 857-368-0655  
[www.mass.gov/massdot](http://www.mass.gov/massdot)



Winter Rapid Recovery Road Program (WRRRP)  
*Rules and Regulations*  
April 9, 2014

1. **Eligible projects** include (a) patching of potholes, cracking and other surface defects, including paving projects, (b) repair and or replacement of signage, guardrail, storm grates, or road striping or painting, or (c) projects identified through written agreement between the MassDOT Highway Division District Office and the specific city or town.
2. We have enclosed **A MassDOT Standard Contract Form**. The highlighted items must be completed, signed and **returned within one week of receipt**.
3. Under the WRRRP, determination of the amount of the funds **allocated** for each city and town is based upon the parameters of the Ch 90 program; Road Miles, Population, and Employment. Please note neither the WRRRP nor any expenses incurred to be reimbursed under the WRRRP fall under the Chapter 90 program.
4. Monies for each specific city or town will be encumbered by MassDOT. This results in the monies being **obligated** on The Commonwealth's accounting system for the purpose of effecting the reimbursement of bills paid by the cities and towns for projects as delineated above.
5. Projects must be **physically completed** by June 30, 2014.
6. Copies of invoices from the communities, along with evidence of payment to **contractors, must be received** by the respective District Office State Aid Engineers by August 1, 2014. District Offices will then process the reimbursement paperwork through MassDOT Headquarters. These invoices must be clearly marked as "WRRRP Eligible." Invoices received at the District Offices after August 1 will not be reimbursed.
7. If the total amount of invoices submitted to MassDOT for the WRRRP is less than the total funds allocated, the remainder of this funding is lost and will be de-obligated. This is the "Use it or Lose it" rule.
8. Cities and Towns will be **reimbursed by September 30<sup>th</sup>** for their expenditures pertaining to the WRRRP program up to the specified amount as per the Secretary's letter of April 9<sup>th</sup>.





**TOWN OF BROOKLINE**  
*Massachusetts*  
**DEPARTMENT OF PUBLIC WORKS**  
Engineering & Transportation Division

*Andrew M. Pappastergion*  
Commissioner  
*Peter M. Ditto, PE*  
Director

April 24, 2014

Board of Selectmen  
Town Hall  
333 Washington Street  
Brookline, MA 02445


Dear Board Members:

Enclosed for your signatures are two copies of a Chapter 90 Project Request and two copies of an Environmental Punch List to the Massachusetts Department of Transportation for the mill & overlay of eight and replacement of cement concrete sidewalks.

In accordance with the 1991 Transportation Bond issue there are available funds in Memorandum of Agreement #0050750.

This project request in the amount of \$1,353,624.80 will provide for the surface restoration of 8 streets throughout Brookline and the replacement of selected concrete sidewalks, and will be reimbursed by the Commonwealth at the rate of 100 percent.

Very truly yours,

  
Andrew M. Pappastergion  
Commissioner of Public Works

Attachments

- Chapter 90 Project Request Form (2 Copies)
- Chapter 90 Environmental Punch List (2 Copies)
- Engineer's Estimate

**CHAPTER 90 – PROJECT REQUEST**

updated 8/2012

**\*2 Original Signed Project Request Forms are to be submitted.****CONTRACT #PW/14-33**

Classification: \_\_\_\_\_

Primary Road: \_\_\_\_\_

Local Road: X \_\_\_\_\_

City/Town: Brookline

Location(s): 8 Locations: Sumner St, Beaconsfield Rd, Aspinwall Ave, Lancaster Terr, Reservoir Rd, Griggs St, Gardner Rd, & St Paul St

Length: Varies feet Width: Varies feet

**PROJECT TYPE**

Construction: ☐ Resurfacing: ☒ Engineering: ☐ Equipment: ☐

Other: \_\_\_\_\_

**TYPICAL SECTION DETAILS:** Indicate depths, special treatments, etc... Also please include sketch for Construction/Improvement Projects.

Surface: 2" Top Course

Base Course: \_\_\_\_\_

Foundation: \_\_\_\_\_

Shoulders/Sidewalks: Install new sidewalks on Lancaster, Reservoir, & Gardner

**SCOPE OF WORK:**

Mill & Overlay 8 streets and install new sidewalk as needed, install new pavement markings and symbols

**WORK TO BE DONE:**

Force Account: ☐ Advertised Contract: ☒ Other: \_\_\_\_\_

Estimated Cost (Please attach estimate and list funding source(s)): \$ 1,353,624.80

**\*\*These funds will pay 100% of Local Road Project costs to the limit of this assignment\*\***

**CERTIFICATION**

The design, engineering, construction, and future performance of the project, including maintenance, is the responsibility of the Municipality. The proposed work will conform to recognized engineering and construction methods. I/We hereby certify under penalty of perjury the following: that the project is on a public way, and any necessary takings have been made; that all materials will comply with approved established specifications; that all weights and quantities will be accurate; that equipment rental rates are those established by MassDOT Highway or the advertised low bid; that all documentation will be checked for accuracy, and will be endorsed in accordance with municipal procedures for accountability.

**Reviewed by:**

Signed: \_\_\_\_\_

State Aid Engineer

Date

Road Classification Verified: \_\_\_\_\_

Approved for \$ \_\_\_\_\_ @ 100%

District Highway Director

Date

Signed: \_\_\_\_\_

4/10/14

Assistant Engineer

4/10/14

Highway Official's Title

Date

Accounting Official's Title

Date

Date

Duly Authorized Municipal Officials





## CHAPTER 90 – PROJECT REQUEST

updated 8/2012

**\*2 Original Signed Project Request Forms are to be submitted.**

**CONTRACT #PW/14-33**

Classification: \_\_\_\_\_  
 Primary Road: \_\_\_\_\_  
 Local Road: X \_\_\_\_\_  
 City/Town: Brookline  
 Location(s): 8 Locations: Sumner St, Beaconsfield Rd, Aspinwall Ave, Lancaster Terr, Reservoir Rd, Griggs St, Gardner Rd, & St Paul St  
 Length: Varies feet Width: Varies feet

### PROJECT TYPE

Construction: ☐ Resurfacing: ☒ Engineering: ☐ Equipment: ☐

Other: \_\_\_\_\_

**TYPICAL SECTION DETAILS:** Indicate depths, special treatments, etc... Also please include sketch for Construction/Improvement Projects.

Surface: 2" Top Course  
 Base Course: \_\_\_\_\_  
 Foundation: \_\_\_\_\_  
 Shoulders/Sidewalks: Install new sidewalks on Lancaster, Reservoir, & Gardner

### SCOPE OF WORK:

Mill & Overlay 8 streets and install new sidewalk as needed, install new pavement markings and symbols

### WORK TO BE DONE:

Force Account: ☐ Advertised Contract: ☒ Other: \_\_\_\_\_

Estimated Cost (Please attach estimate and list funding source(s)): \$ 1,353,624.80

\*\*These funds will pay 100% of Local Road Project costs to the limit of this assignment\*\*

### CERTIFICATION

The design, engineering, construction, and future performance of the project, including maintenance, is the responsibility of the Municipality. The proposed work will conform to recognized engineering and construction methods. I/We hereby certify under penalty of perjury the following: that the project is on a public way, and any necessary takings have been made; that all materials will comply with approved established specifications; that all weights and quantities will be accurate; that equipment rental rates are those established by MassDOT Highway or the advertised low bid; that all documentation will be checked for accuracy, and will be endorsed in accordance with municipal procedures for accountability.

#### Reviewed by:

Signed: \_\_\_\_\_

State Aid Engineer

Date

Road Classification Verified: \_\_\_\_\_

Approved for \$ \_\_\_\_\_ @ 100%

District Highway Director

Date

#### Signed:

4/10/14

Assistant Engineer

4/10/14

Highway Official's Title

Date

Accounting Official's Title

Date

Date

Duly Authorized Municipal Officials

**CHAPTER 90 – ENVIRONMENTAL PUNCH LIST**

City/Town BROOKLINE MassDOT Highway District # 6

Proposed Work: Mill & Overlay Clyde/Lee Street (Southbound Side Only) and Install New Pavement Markings

Construction        Resurfacing        X Improvement        Engineering        Other       

**NOTE: ALL ENVIRONMENTAL PERMITS / APPROVALS MUST BE OBTAINED PRIOR TO CONSTRUCTION.**

- |  |     |          |          |
|--|-----|----------|----------|
| 1. Will the pavement width increase 4 ft. or more for an aggregate length of 1000 ft. or more?   | Yes | No       | <u>X</u> |
| 2. Will the bank or terrain (other than alteration required for installation of equipment or structures) be altered at a distance exceeding 10 ft. from the pavement?              | Yes | No       | <u>X</u> |
| 3. Will the removal of 5 or more trees with diameters of 14 inches or more be required?  | Yes | No       | <u>X</u> |
| 4. Will more than 300 ft. of stone wall be removed or altered?   | Yes | No       | <u>X</u> |
| 5. Will the project involve construction of a parking lot with capacity of 50 cars or more?  | Yes | No       | <u>X</u> |
| 6. Are any other MEPA review thresholds exceeded (see 301 CMR 11.00)?  |     |          |          |
| If your answer is YES to any of questions 1-6, you must file an Environmental Notification Form (ENF).*  |     |          |          |
|  | Yes | No       | <u>X</u> |
| Will the project be on a "Scenic Road" (Acts of 1973, C. 67)?  |     |          |          |
| If your answer is YES, your Planning Board or Selectmen / City Council must give written consent for cutting / removal of trees or changes to stone walls.                         |     |          |          |
|  | Yes | No       | <u>X</u> |
| 8. Have all necessary takings, easements, rights of entry, etc. been completed?  |     |          |          |
| If a county Hearing is required, it must be held prior to starting work  |     |          |          |
|  | Yes | <u>X</u> | No       |
| 9. Are archaeological, anthropological, historical, etc. problems / impacts anticipated?*  | Yes | No       | <u>X</u> |
| 10. Is any work proposed in or within 100 ft. of a wetland (stream, pond, swamp, etc.)?*   |     |          |          |
| If your answer is YES, you must file the project with your local Conservation Commission prior to starting work.   |     |          |          |
|  | Yes | No       | <u>X</u> |
| 11. If work is proposed in a wetland or water resource, a permit may be required from the Department of Environmental Protection, Corps of Engineers, etc.. Verify with agencies.* | Yes | No       | <u>X</u> |

\* See Appendix K for a List of Environmental Agencies.

**Validation**

It is recognized that the purpose of this information is to assist the MassDOT Highway Division in approving the Chapter 90 Project Request Form (of which this is a part). Accordingly, the information provided here is intended to be complete and correct with no intentional errors or material omissions. Any action taken by MassDOT Highway Division on the basis of this information shall not legally or financially obligate MassDOT Highway Division to support or defend the municipality, and the municipality shall save harmless MassDOT Highway Division for any action.

<b>Duly Authorized Municipal Officials</b>		<b>Reviewed and Approved for Transmittal by:</b>	
		 Assistant Engineer	
		Highway or Conservation Officer's Title	
Signatures	Board of Selectmen	Signatures	
Date		Date	

This form should be submitted in duplicate with original signatures to the MassDOT Highway District Office.  
 This form should accompany the Project Request Form.

**CHAPTER 90 – ENVIRONMENTAL PUNCH LIST**

City/Town BROOKLINE MassDOT Highway District # 6

Proposed Work: Mill & Overlay Clyde/Lee Street (Southbound Side Only) and Install New Pavement Markings


Construction \_\_\_\_\_ Resurfacing X Improvement \_\_\_\_\_ Engineering \_\_\_\_\_ Other \_\_\_\_\_

**NOTE: ALL ENVIRONMENTAL PERMITS / APPROVALS MUST BE OBTAINED PRIOR TO CONSTRUCTION.**

1. Will the pavement width increase 4 ft. or more for an aggregate length of 1000 ft. or more? Yes \_\_\_\_\_ No X
  2. Will the bank or terrain (other than alteration required for installation of equipment or structures) be altered at a distance exceeding 10 ft. from the pavement? Yes \_\_\_\_\_ No X
  3. Will the removal of 5 or more trees with diameters of 14 inches or more be required? Yes \_\_\_\_\_ No X
  4. Will more than 300 ft. of stone wall be removed or altered? Yes \_\_\_\_\_ No X
  5. Will the project involve construction of a parking lot with capacity of 50 cars or more? Yes \_\_\_\_\_ No X
  6. Are any other MEPA review thresholds exceeded (see 301 CMR 11.00)?  
 If your answer is YES to any of questions 1-6, you must file an Environmental Notification Form (ENF).\* Yes \_\_\_\_\_ No X  
 Will the project be on a "Scenic Road" (Acts of 1973, C. 67)?  
 If your answer is YES, your Planning Board or Selectmen / City Council must give written consent for cutting / removal of trees or changes to stone walls. Yes \_\_\_\_\_ No X
  8. Have all necessary takings, easements, rights of entry, etc. been completed?  
 If a county Hearing is required, it must be held prior to starting work Yes X No \_\_\_\_\_
  9. Are archaeological, anthropological, historical, etc. problems / impacts anticipated?\* Yes \_\_\_\_\_ No X
  10. Is any work proposed in or within 100 ft. of a wetland (stream, pond, swamp, etc.)?\*  
 If your answer is YES, you must file the project with your local Conservation Commission prior to starting work. Yes \_\_\_\_\_ No X
  11. If work is proposed in a wetland or water resource, a permit may be required from the Department of Environmental Protection, Corps of Engineers, etc.. Verify with agencies.\* Yes \_\_\_\_\_ No X
- \* See Appendix K for a List of Environmental Agencies.

**Validation**

It is recognized that the purpose of this information is to assist the MassDOT Highway Division in approving the Chapter 90 Project Request Form (of which this is a part). Accordingly, the information provided here is intended to be complete and correct with no intentional errors or material omissions. Any action taken by MassDOT Highway Division on the basis of this information shall not legally or financially obligate MassDOT Highway Division to support or defend the municipality, and the municipality shall save harmless MassDOT Highway Division for any action.

Duly Authorized Municipal Officials		Reviewed and Approved for Transmittal by:	
		 Assistant Engineer	
		Highway or Conservation Officer's Title	
Signatures	Board of Selectmen	Signatures	Date
Date		Date	

This form should be submitted in duplicate with original signatures to the MassDOT Highway District Office.  
 This form should accompany the Project Request Form.

**TOWN OF BROOKLINE E. - 6**  
**DEPARTMENT OF PUBLIC WORKS**  
**ENGINEERING DIVISION**  
**CONTRACT #PW/14-33**

**Mill & Overlay Various Streets**

**CONTRACT ESTIMATE NUMBER**

**Engineer Estimate**

Item Number	Description	Unit	Contract Qty	Price	Total
120.00	Earth Excavation	CY	50	\$ 35.00	\$1750.00
121.1	Class A Rock Excavation	CY	715	\$ 50.00	\$35750.00
129.1	Bit. Conc. Excav.	SY	1865	\$ 8.50	\$15852.50
129.03	Bit. Conc. Excav. By Cold Planer	SY	44990	\$ 3.50	\$157465.00
220.1	Drainage Structure Adj.	EA	234	\$ 225.00	\$52650.00
220.21	Drainage Structure Rebuilt	FT	15	\$ 250.00	\$3750.00
358.1	Gate Box Adj.	EA	118	\$ 140.00	\$16520.00
402.1	Dense Graded Crushed Stone	Ton	600	\$ 22.00	\$13200.00
460	HMA Pavement	Ton	5129	\$ 90.00	\$461610.00
464	Bitumin for Tack Coat	Gal	2250	\$ 4.00	\$9000.00
472	HMA for Misc. Work	Ton	319	\$ 150.00	\$47850.00
701	Cem Conc Sidewalks	SY	5146	\$ 45.00	\$231570.00
701.1	Cem Conc Sidewalks @ Drives	SY	1738	\$ 50.00	\$86900.00
701.2	Cem Conc WCR	SY	189	\$ 60.00	\$11340.00
819.831	Wire Loop Installed in Roadway	FT	890	\$ 12.50	\$11125.00
864.02	Strait Arrow Symbol Inlay	EA	3	\$ 400.00	\$1200.00
864.021	Left Hand Turn Only Symbol Inlay	EA	3	\$ 400.00	\$1200.00
864.022	Right Hand Turn Only Symbol Inlay	EA	4	\$ 400.00	\$1600.00
864.023	Strait/Right Turn Only Symbol Inlay	EA	2	\$ 400.00	\$800.00
864.024	"ONLY" Symbol	EA	11	\$ 500.00	\$5500.00
864.025	"SCHOOL" Symbol	EA	2	\$ 500.00	\$1000.00
866.04	4" Reflec. White Line	LF	1052	\$ 0.50	\$526.00
867.04	4" Reflec. Yellow Line	LF	7699	\$ 0.50	\$3849.50
870.12	12" Reflec. White Tape Inlay	LF	4880	\$ 12.00	\$58560.00

<b>Estimate</b>	<b>\$1,230,568.00</b>
<b>10% Police</b>	<b>123,056.80</b>
<b>Grand Total</b>	<b>\$1353624.80</b>



**TOWN OF BROOKLINE**  
*Massachusetts*  
**DEPARTMENT OF PUBLIC WORKS**

*Andrew M. Pappastergion*  
 Commissioner

April 1, 2014

Board of Selectmen  
 Town Hall  
 Brookline, MA 02445

Dear Board Members:

On February 27, 2014 proposals for "Waldstein Playground Improvements", Contract No. PW/14-06, were publicly opened and read. Eleven bids were received and the lowest three are as follows:

	<u>Base Bid</u>	
Target Construction Corp.	\$1,385,928.00	(rejected)
Quirk Construction Corp.	\$1,447,104.00	
Mountainview Landscapes and Lawncare, Inc.	\$1,462,289.00	

The proposal from Target Construction Corp. was deficient and their bid was rejected.

The work in this contract consists of playground reconstruction including drainage, play equipment, play surfaces, tennis courts, walkways, splash pad, ball field, fencing, irrigation, site furniture, and plantings.

In order to bring the project cost within the budget, Public Works proposes to eliminate items from the Contract as permitted by the following language in the Scope of Work:

"The Commissioner of Public Works reserves the right to either decrease the quantity or eliminate items of work in order to keep the project within the appropriation."

The elimination of the items does not change the standing of Quirk Construction Corp.'s and Mountainview Landscapes and Lawncare, Inc.'s bids. The value of the eliminated items, based on Quirk Construction Corp.'s bid, is \$49,575.50.

Public Works recommends that this contract be awarded to Quirk Construction Corp. of Georgetown, MA, in the amount of \$1,397,528.50.

Sincerely,

*Andrew M. Pappastergion*  
 Andrew M. Pappastergion  
 Commissioner of Public Works

## Town Of Brookline

## Contract Coding Approval Form

Department: Public Works/Engineering DivisionVendor Name: Quirk Construction Corp.Vendor Number: 33914 Amount of Contract: \$1,397,528.50Contract #: PW/14-06

Purpose of Contact:

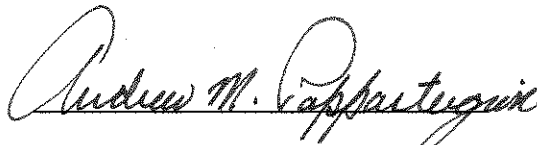
Description: Waldstein Playground Improvements consists of drainage, play equipment, play surfaces, tennis courts, walkways, splash pad, ball field, fencing, irrigation, site furnishing and plantings.

## Coding:

Org #	Org Name *	Acct #	Acct Name	Amount
4997C172	DPW CIP	6C0007	Waldstein Playground Reno	\$1,129,687.84
4997C169	DPW CIP	6C0005	Drainage Improvements	\$34,500.00
4914K069		6P0028	Tennis/Basketball Courts	\$100,000.00
4907K080		6P0054	Lighting	\$80,840.66
4914K066		9P0018	Field and Fence	\$52,500.00

\* For "WS" or "C" accounts, please call it "CIP", preceded by your Dept (e.g., 4998WS08 would be "DPW CIP").

Department Head:



Date



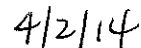
Comptroller and Purchasing Approvals

Funds Available/Codes Correct

Comptroller



Date Approved by Comptroller



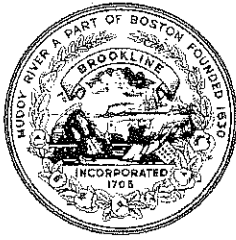
Complies with Appropriate Procurement Law  
(MGL ch 149, ch 30 30 30M, or ch 30B)

Purchasing



Date Approved by Purchasing





TOWN OF BROOKLINE  
*Massachusetts*  
DEPARTMENT OF PUBLIC WORKS

Andrew M. Pappastergion  
Commissioner

April 2, 2014

Board of Selectmen  
Town Hall – 6<sup>th</sup> Floor  
333 Washington Street  
Brookline, MA 02445

RE Daniel J. Warren Field / Eliot Playground Improvements (Rebid)  
Contract No. PW/14-07

Dear Members of the Board,

The proposals for Daniel J. Warren Field / Eliot Playground Improvements (Rebid), Contract No. PW/14-07, were publicly opened and read on Thursday, February 27, 2014. Nine bids were received and the lowest three are as follows:

	<u>Base Bid</u>
JNJ Sacca Inc., Arlington MA	\$ 949,000.00
NELM Corp, Carver, MA	\$ 964,422.20
UEL Contractors, Fitchburg MA	\$1,015,016.00


The work in this contract consists of landscape improvements, including new play equipment, site furniture, fencing, lawns, paving, and utilities. In order to bring the project cost within the budget, Public Works proposes to both decrease the quantity and eliminate items from the Contract, as permitted by the following language in the Scope of Work:

“The Commissioner of Public Works reserves the right to either decrease the quantity or eliminate items of work in order to keep the project within the appropriation.”

The decrease and elimination of the items does not change the standing of JNJ Sacca and NELM Corp.’s bid. The low bidder, JNJ Sacca Inc., withdrew their proposal after reviewing the reduced scope of work. The second bidder, NELM Corp, agreed to the changes and revised total base bid of \$788,176.20.

Public Works recommends that this contract be awarded and executed to NELM Corp., in the amount of \$788,176.20.

Very truly yours,

  
Andrew M. Pappastergion  
Commissioner of Public Works

333 Washington Street • Brookline, Massachusetts 02445-6863  
Telephone: (617) 730-2156 Facsimile: (617) 730-2258  
[www.brooklinema.gov](http://www.brooklinema.gov)

## Contract Coding Approval Form

Department: Public Works

Vendor Name : NELM Corp

Vendor Number : 48211 Amount of Contract \$788,176.20

Contract # : PW/14-07

Title: Daniel J. Warren Field / Eliot Playground Improvements

Purpose of Contact:

<b>Description:</b>
Playground Improvements at Warren Field and Eliot playground

Coding:

Org #	Org Name *	Acct #	Acct Name	Amount
4997C172	6C0007			\$788,176.20

\* For "WS" or "C" accounts, please call it "CIP", preceded by your Dept (e.g., 4998WS08 would be "DPW CIP").

Department Head:

*Judith M. Pappas*

Date

07/01/2014

Comptroller and Purchasing Approvals

Funds Available/Codes Correct

*JR*  
Comptroller

4/3/14  
Date Approved by Comptroller

Complies with Appropriate Procurement Law  
(MGL ch 149, ch 30 30 30M, or ch 30B)

*Paul G. ...*  
Purchasing

4/3/14  
Date Approved by Purchasing



9



# TOWN OF BROOKLINE

Department of Public Works  
333 Washington Street  
Brookline, MA 02445-6863

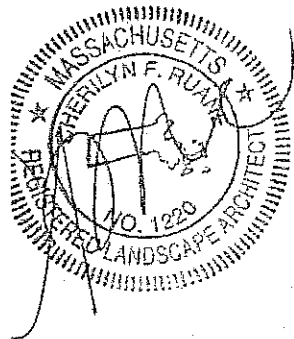
**NOTICE TO CONTRACTORS  
SPECIFICATIONS  
PROPOSAL and CONTRACT AGREEMENT  
For**

**DANIEL J. WARREN FIELD/  
ELIOT PLAYGROUND IMPROVEMENTS**

**CONTRACT No. PW/14-07 Re-Bid**

This Proposal To Be Opened And Read:  
Thursday, February 27, 2014@ 2:00 PM Local Time

Name of Contractor : NELM CORP.



PROPOSAL

For: Contract # PW/14-07 Daniel J. Warren Field/Eliot Playground Re Bid

Town of Brookline, Brookline, Massachusetts.

Location

The work referred to herein is in the Town of Brookline, County of Norfolk, Commonwealth of Massachusetts, as described in the enclosed specifications and proposal forms on file in the Engineering Division Office and extends as follows:

**To the Party of the First Part:**

The undersigned, as bidder, declares that the only persons or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any other person, firm or corporation; that he has carefully examined the location of the proposed work, the Notice to Contractors, the Instruction to Bidders and all attachments referred to therein, the proposed form of contract, the "STANDARD SPECIFICATIONS" and plans therein referred to and the Special Provisions and Additions hereto annexed; and he proposes and agrees, if this proposal is accepted, that he will contract with the Party of the First Part, in the form of the contract referred to herein and to be annexed hereto, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all materials specified in the contract, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and that he will take in full payment therefore the following unit prices, to wit:

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
102.7	15	Tree Protection @	100	00	1,500	00
		One Hundred Per Each				
105.1	6	Tree and Stump Removed @	2,000	00	12,000	00
		Two Thousand Per Each				
CARRIED FORWARD					13,500	00

# G. - 5

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
			Brought Forward		13,500	00
120.1	1	General Site Demolition @	46,000	00	46,000	00
		Forty Six Thousand Per Lump Sum				
120.2	1	Building Demolition @	6,000	00	6,000	00
		Six Thousand Per Lump Sum				
120.3	1	Play Equipment and Surfacing Demolition @	24,000	00	24,000	00
		Twenty Four Thousand Per Lump Sum				
120.4	1	Salvaged Items @				
		Four Thousand Per Lump Sum	4,000	00	4,000	00
XX		Void	<hr/>			
122.1	1300	Screen, Amend, and Respread Topsoil @				
		Fifteen Per Cubic Yard	15	00	19,500	00
122.2	40	Sand Amendment for Topsoil @				
		Fifty Per Cubic Yard	50	00	2,000	00
122.3	40	Organic Amendment for Topsoil @				
		Fifty Per Cubic Yard	50	00	2,000	00
CARRIED FORWARD					117,000	00

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
			Brought Forward		117,000	00
123	260	Excavation to Design Subgrade and Reuse on Site @ <div>Forty</div> <div>Per Cubic Yard</div>	40	00	10,400	00
124	1	Infield Refurbishment @ <div>Seventeen Thousand</div> <div>Per Lump Sum</div>	17,000	00	17,000	00
126	1300	Strip and Stockpile Topsoil On-Site for Reuse @ <div>Eight</div> <div>Per Cubic Yard</div>	8	00	10,400	00
129.1	1	Pavement Demolition @ <div>Nineteen Thousand</div> <div>Per Lump Sum</div>	19,000	00	19,000	00
130.1	375	Straw Wattle/Silt Fence Erosion Control @ <div>Eight</div> <div>Per Linear Foot</div>	8	00	3,000	00
130.2	1	Construction Entrance Pad + Removal @ <div>Two Thousand Five Hundred</div> <div>Per Each</div>	2,500	00	2,500	00
XX		Void				
150	75	Ordinary Borrow <div>Thirty Eight</div> <div>Per Cubic Yard</div>	38	00	2,850	00
CARRIED FORWARD					182,150	00

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
Brought Forward					182,150	00
201	4	Catch Basin @  Three Thousand Five Hundred Per Each	3,500	00	14,000	00
201.1	1	Drop Inlet at Splash Pad @  Two Thousand Eight Hundred Per Each	2,800	00	2,800	00
220	1	Structure Adjusted @  Five Hundred Per Each	500	00	500	00
220.1	3	Clean Out @  Five Hundred Per Each	500	00	1,500	00
256.1	317	6 In. Diam. Perforated HDPE Drainage Pipe @  Twenty Two Per Linear Foot	22	00	6,974	00
256.2	45	6 In. Diam. SDR 35 Pipe for Splash Pad Drain @  Fifty Per Linear Foot	50	00	2,250	00
256.3	481	12 In. Diam Solid HDPE Drainage Pipe @  Forty Seven Per Linear Foot	47	00	22,607	00
347	285	2 In. PVC Water Line @  Twenty Per Linear Foot	20	00	5,700	00
CARRIED FORWARD					238,481	00

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
			Brought Forward		238,481	00
374.1	1	Water Manhole Plumbing Refurbishment Including Backflow Preventers @  Six Thousand	6,000	00	6,000	00
		Per Lump Sum				
374.2	5	¾" Type K Copper Tubing for Water Line @  One Hundred	100	00	500	00
		Per Linear Foot				
374.3	1	Irrigation System Adjustment (Ballfield)  Ten Thousand	10,000	00	10,000	00
		Per Lump Sum				
374.4	1	Retractable Underground Hose Reel  Two Thousand Seven Hundred	2,700	00	2,700	00
		Per Lump Sum				
389.02	1	ADA Drinking Fountain @  Five Thousand	5,000	00	5,000	00
		Per Each				
402.1	900	Dense Graded Crushed Stone @  Twenty Four	24	00	21,600	00
		Per Ton				
444.3	471	Geotextile Membrane  Two	2	00	942	00
		Per Square Yard				
CARRIED FORWARD					285,223	00

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
Brought Forward					285,223	00
450.3	90	¾ In. Crushed Stone for Underdrainage @  Forty Two Per Cubic Yard	42	00	3,780	00
520.1	204	Precast Concrete Curb (Curved) @  Forty Per Linear Foot	40	00	8,160	00
520.2	395	2x8 Composite Edging @  Fourteen Per Linear Foot	14	00	5,530	00
644.1	318	72 In. Chain Link Fence and Gates (Temporary) @  Eight Per Linear Foot	8	00	2,544	00
645.2	357	4 Ft. High Chain Link Fencing at Play Area @  Forty Per Linear Foot	40	00	14,280	00
645.4	3	6 Ft. Wide, 4 Ft. High Chain Link Double Gate @  One Thousand Four Hundred Per Each	1,400	00	4,200	00
XX		Void  ✓				
646.1	1	Vehicle Swing Gate  Five Thousand Per Each	5,000	00	5,000	00
CARRIED FORWARD					328,717	00

# G. - 10

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
Brought Forward					328,717	00
701	330	Portland Cement Concrete Slab for Site Furniture and Concrete Walks, 4 In. Depth @ <i>Fifty Six</i> Per Square Yard	56	00	18,480	00
701.2	106	Concrete at Pump Area, Rill and Lower Splash Pad @ <i>One Hundred Seventy Five</i> Per Square Yard	175	00	18,550	00
702.1	404	Bituminous Concrete Paving @ <i>Two Hundred Fifteen</i> Per Ton	215	00	86,860	00
703	36	Play Sand @ <i>ALD</i> <del>Thirty</del> <i>Sixty</i> Per Cubic Yard	60	00	2,160	00
704	20	Landscape Boulders @ <i>Two Hundred Fifty</i> Per Each	230	00	5,000	00
707.1	8	Backed Bench @ <i>One Thousand Eight Hundred</i> Per Each	1,800	00	14,400	00
707.2	2	Baseball Players Bench @ <i>One Thousand Two Hundred</i> Per Each	1,200	00	2,400	00
707.3	1	Accessible Picnic Table Set @ <i>Four Thousand</i> Per Each	4,000	00	4,000	00
CARRIED FORWARD					480,567	00



# G. - 11

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
			Brought Forward		480,567	00
707.5	2	Side Table @  One Thousand One Hundred Per Each	1,100	00	2,200	00
707.6	1	Baseball Bases, Home Plates and Pitching Rubber @  Two Thousand Per Lump Sum	2,000	00	2,000	00
770.0	2	Remove and Reset Foul Pole @  Six Hundred Per Each	600	00	1,200	00
720.12	1	Furnish and Install Play Equipment Base Bid @  Three Hundred Seventy Eight Thousand Per Lump Sum	378,000	00	378,000	00
720.13	1	Repair and Clean Existing Wooden Play House @  One Thousand Five Hundred Per Each	1,500	00	1,500	00
721.35	448	Rubber Tile Play Surface @  Twenty one Per Square Foot	21	00	9,408	00
721.37	1300	Poured-In-Place Rubberized Play Surface @  Seventeen Per Square Foot	17	00	22,100	00
721.4	1	Wood Bridge and Platforms Along Rill @  Fourteen Thousand Per Lump Sum	14,000	00	14,000	00
739.14	1	Water Source Eibe Acqua Mushroom and Water Gates @  Thirteen Thousand Per Lump Sum	13,000	00	13,000	00
CARRIED FORWARD					923,975	00

# G. - 12

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
Brought Forward					923,975	00
739.15	1	Treatment of Existing Spray Pool @ <i>Four Thousand Five Hundred</i> Per Lump Sum	4,300	00	4,300	00
751	50	Planting Loam @ <i>Thirty Six</i> Per Cubic Yard	36	00	1,800	00
760	30	Aged Pine Bark Mulch @ <i>Fifty Five</i> Per Cubic Yard	55	00	1,650	00
765.01	8,476	Liming, Fertilizing and Seeding @ <i>One Dollar and Seventy Cents</i> Per Square Yard	1	70	14,409	20
765.02	737	Sodding @ <i>Eight</i> Per Square Yard	8	00	5,896	00
778.1	2	Amelanchier x grandiflora 'Autumn Brilliance', 2.5"-3" Cal. @ <i>Two Hundred Fifty</i> Per Each	250	00	500	00
778.2	2	Acer rubrum 'October Glory', 2.5"-3" Cal. @ <i>Two Hundred</i> Per Each	200	00	400	00
778.3	4	Betula nigra 'Cully' Heritage, 12'-14' Ht. @ <i>Two Hundred</i> Per Each	200	00	800	00
CARRIED FORWARD					953,920	20

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
			Brought Forward		933,920	30
778.4	1	Betula nigra 'Little King', 3"-3.5" Cal. @  Three Hundred Thirty Per Each	330	00	330	00
778.5	2	Carya cordiformis, 2.5"-3" Cal. @  Three Hundred Fifty Per Each	350	00	700	00
778.6	8	Hamamelis virginiana, 4' - 6' Ht..@  One Hundred Twenty Per Each	120	00	960	00
778.7	3	Nyssa sylvatica, 2"-2.5" Cal. @  Two Hundred Twenty Per Each	220	00	660	00
778.8	7	Quercus rubra, 2.5"-3" Cal. @  Two Hundred Fifty Per Each	250	00	1,750	00
778.9	6	Thuja occidentalis 'Nigra', 8'-10' Ht. @  One Hundred Eighty Per Each	180	00	1,080	00
785.1	16	Azalea 'Delaware Valley White', 24"-36" Ht. @  Fifty Five Per Each	55	00	880	00
785.2	38	Athyrium filix-femina, 1 Quart Pot @  Twelve Per Each	12	00	456	00
CARRIED FORWARD					960,746	20

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
Brought Forward					960,746	20
785.3	9	Fothergilla gardenii, 18"-24" Ht. @  Sixty  Per Each	60	<u>00</u>	540	<u>00</u>
785.4	38	Dennstaedtia punctilobula, 1 Quart Pot @  Twelve  Per Each	12	<u>00</u>	456	<u>00</u>
785.5	44	Itea virginica 'Little Henry', 18"-24" Ht. @  Fifty  Per Each	50	<u>00</u>	2,200	<u>00</u>
785.6	8	Rhododendron maximum 'Compacta', 2 Gal. Cont. @  Sixty	60	<u>00</u>	480	<u>00</u>
Nine Hundred Sixty Four Thousand Four Hundred Twenty Two Dollars and Twenty Cents TOTAL BASE BID Written in Words					964,422	20

# G. - 15

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent
Alternate # 1 Baseball Backstop and Infield Fencing						
120.5	1	Baseball Backstop and Appurtenances Demolition @ <i>Five Thousand</i>	5,000	<u>00</u>	5,000	<u>00</u>
		Per Lump Sum				
644.4	1	Vinyl Clad Chain Link Backstop with Sun Shade <i>Thirty Five Thousand</i>	35,000	<u>00</u>	35,000	<u>00</u>
		Per Lump Sum				
645.3	350	6 FT High Chain Link Fencing - High School Infield Fencing @ <i>Sixty</i>	60	<u>00</u>	21,000	<u>00</u>
		Per Linear Foot				
<i>Sixty One Thousand</i> TOTAL Alternate #1 Written in Words					61,000	<u>00</u>

Alternate # 2 HS Outfield Fence						
645.3	567	6 Ft. High Chain Link Fencing - High School Outfield Fencing @ <i>Sixty</i>	60	<u>00</u>	34,020	<u>00</u>
		Per Linear Foot				

Alternate # 3 Embankment Slide						
720.15	1	Embankment Slide and Surfacing @ <i>Thirteen Thousand</i>	13,000	<u>00</u>	13,000	<u>00</u>
		Per Lump Sum				

Item No.	Quantity	Items with Unit Price Written in Words	Unit Price		Amount	
			Dollars	Cent	Dollars	Cent

Alternate # 4 Second Jeep Play Element for 2-5 Year Olds						
720.16	1	Second Jeep Play Element @				
		Twelve Thousand Per Each	12,000	00	12,000	00

Alternate # 5 Play Hut						
702.14	1	Wooden Playhouse Type C, Wooden Playhut with Floor @				
		Seven Thousand Per Lump Sum	7,000	00	7,000	00

Alternate # 6 Water Table in Sand Area						
739.13	1	Water Table at Sand Area @				
		Forty Three Thousand Per Lump Sum	43,000	00	43,000	00

Alternate # 7 Splash Pad System						
730.12	1	Splash Pad System @				
		Seventy Six Thousand Eight Hundred Per Lump Sum	76,800	00	76,800	00



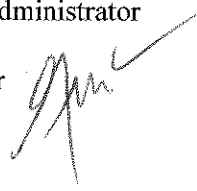
# Town of Brookline

## Massachusetts

**Department of Planning and  
Community Development**

Town Hall, 3<sup>rd</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2130 Fax (617) 730-2442  
ASteinfeld@brooklinema.gov

**Alison Steinfeld**  
Director

TO: Patty Parks, Assistant to Town Administrator  
FROM: Gail M. Lewis, CD Administrator   
DATE: April 10, 2014  
SUBJECT: **Miscellaneous CDBG Item for the Board of Selectmen  
04/17/2013 Meeting**

I request that the Board of Selectmen place on their Thursday, April 17, 2014 agenda the following miscellaneous CDBG item:

1) *The question of approving the following CDBG transfers:*

*The Town undertook an extensive public process for the Emerald Necklace Crossing project with the goal for the Town's consulting engineer, Greenman Pedersen, Inc. to develop a plan for a bicycle and pedestrian crossing that could be implemented to address the poor connection between Olmsted Park and the Riverway at Rt. 9. The Selectmen-appointed Emerald Necklace Bicycle and Pedestrian Crossing Committee held five public meetings over nine months to build consensus about how best to implement a crossing solution at that location. After public outreach and stakeholder input, the Committee voted to support a conceptual version of the Rt. 9 Crossing, which included a significantly larger scope and project area than was originally envisioned. The Board of Selectmen and the Brookline Transportation Board then voted affirmatively for the Department of Public Works to move forward with 25 percent design plans for this Emerald Necklace Crossing project. Plans must be submitted to the Massachusetts Department of Transportation (MassDOT) for review and approval before federal construction funds can be accessed.*

*The Route 9 crossing option that emerged as part of the public process has a wider scope than originally envisioned and accordingly involves a more significant level of effort on behalf of the Town's design engineer, GPI, Inc. An additional \$71,079.63 in CDBG funds is requested to be reallocated toward the total cost. The remaining sources of funds for this project will be encumbered from CDBG and grant funds from the Department of Conservation and Recreation.*

*The question of approving the transfers in the sum of \$71,079.63 in CDBG funds represents activities that have been closed out and no longer require funding.*

**FROM:**

- Comprehensive Planning \$8,822.35  
1804 G003 510101
- Comprehensive Planning \$26,652.21  
1804 G004 510101
- Comprehensive Planning \$1,379.55  
1804 G005 510101
- Comprehensive Planning \$1,780.80  
1804 G008 510101

## H. - 2

- *Handicapped Accessibility* \$1,626.51  
1818 G000 6C0010
- *Handicapped Accessibility* \$6,000.00  
1818 G001 6C0010
- *Tree Removal and Replacement* \$14,177.00  
1819 G005 6C0011
- *Col. Floyd Public Improvements* \$5,393.75  
1807 G006 6C0018
- *Juniper Playground* \$5,247.46  
1842 G008 6C0007

---

**Total: \$71,079.63**

### TO:

#### *Pedestrian/Bicycle Crossing of Route 9*

- 1847 G003 524003 \$8,822.35
- 1847 G004 524003 \$26,652.21
- 1847 G005 524003 \$1,379.55
- 1847 G008 524003 \$1,780.80
- 1847 G000 524003 \$1,626.51
- 1847 G001 524003 \$6,000.00
- 1847 G005 524003 \$14,177.00
- 1847 G006 524003 \$5,393.75
- 1847 G008 524003 \$5,247.46

---

**Total: \$71,079.63**

cc: Janice LaVoie  
Rob Kefalas  
Erin Chute Gallantine  
Joe Viola





TOWN OF BROOKLINE  
*Massachusetts*  
DEPARTMENT OF PUBLIC WORKS  
Engineering & Transportation Division

*Andrew M. Pappastergion,*  
*Commissioner*

*Peter M. Ditto, PE*  
*Director*

April 8, 2014

Board of Selectmen  
Town Hall  
Brookline, MA 02445

RE: Contract No. PW/12-06 Design and Engineering Services  
Pedestrian/Bicycle Crossing at Route 9, Brookline, MA,

Dear Board Members:

Attached for your approval is the contract Amendment and extension to the original contract between the Town of Brookline (Town) and Greenman-Pederson Inc., dated September 27, 2011.

The Amendment has been prepared to provide additional Professional Engineering Services to the Town for Phase II of the project. The total estimated compensation for performing the Amended Scope of services for Phase II will be \$230,897.93, an increase of \$123,427.93, from the original scope. This amendment will increase the contract (both Phase I and II) to \$298,950.17.

We ask for your approval of this work.

Sincerely,

Andrew M. Pappastergion,  
Commissioner of Public Works

333 Washington Street • Brookline, Massachusetts 02445-6863  
Telephone: (617) 730-2139 Facsimile: (617) 264-6450  
[www.brooklinema.gov](http://www.brooklinema.gov)

# I. - 2 Town of Brookline

## Contract Amendment Approval Form

Department: Public Works

Vendor Name : Greenman-Pedersen Inc

Vendor Number : 024511

Amount of Contract : \$123,897.93 <sup>427.93</sup>

Contract # : PW/12-06

Title: Emerald Necklace Bicycle and Pedestrian Crossing

Purpose of Amendment:

### Description:

Additional professional Engineering Services to the Town of Brookline to complete the amended scope of work for Phase II Construction Documentation for Public Bid

### Coding:

Org #	Org Name *	Acct #	Acct Name	Amount
4995SW78		524010		\$52,348.30
1847G003		524003		\$8,822.35
1847G004		524003		\$26,652.21
1847G005		524003		\$1,379.55
1847G008		524003		\$1,780.80
1847G000		524003		\$1,626.51
1847G001		524003		\$6,000.00
1847G005		524003		\$14,177.00
1847G006		524003		\$5,393.75
1847G008		524003		\$5,247.46

\* For "WS" or "C" accounts, please call it "CIP", preceded by your Dept (e.g., 4998WS08 would be "DPW CIP").

Department Head:

*Andrew M. Rappaport*

Date

04/01/2014

Comptroller and Purchasing Approvals

Funds Available/Codes Correct

*After transfer*

Comptroller

*gpc*

Date Approved by Comptroller

4/3/14

Complies with Appropriate Procurement Law  
(MGL ch 149, ch 30 30 30M, or ch 30B)



Purchasing

*Don O'Sullivan*


Date Approved by Purchasing





4/3/14

---


From:  Tony Guigli Friday, April 11, 2014 1:03:34 PM 

Subject: BOS Agenda 4/17/2014

To:  Sean Cronin

Cc:  Patty Parks  Jan LaVoie  Peter Rowe  Dan Bennett

---

Attachments:  flans\_201404111301.pdf / Adobe Acrobat Document (828K)

---

Sean, please add the following contract amendment to the BOS Agenda:

Lawrence School Classroom Addition, Flansburgh Architects, Contract Amendment #4, increase \$139,376.00, design and construction administration for MGL ch 149 delivery method of construction.

2513K042 6B0109

Originals with Comptroller for code confirmation.

Thanks.



## Flansburgh Architects

CONVENTIONAL CONSTRUCTION CLASSROOM ADDITION PROPOSAL LETTER  
AMOS A. LAWRENCE SCHOOL  
BROOKLINE, MASSACHUSETTS

April 4, 2014

Mr. Tony Guigli  
Project Administrator  
Town Hall - Third Floor  
333 Washington Street  
Brookline, MA 02445

Re: Classroom addition at The Amos A. Lawrence School

Dear Mr. Guigli:

Flansburgh Associates, Inc. is pleased to submit this proposal to provide architectural design services for the above referenced project:

### PROJECT DESCRIPTION

Provide Architectural design services for a four Classroom addition at the Lawrence school site for the Town of Brookline as the Owner. The proposal includes design services for a complete and fully designed addition in accordance with the Owner / Architect agreement.

The project consists of an addition with 4 classrooms and an associated link building connection with utility tie-ins to the existing Lawrence school located in Brookline, Massachusetts. The project documents will be prepared in accordance with M.G.L. c. 149 utilizing the design-bid-build process.

The Project includes design of the following:

1. A 2-story addition with 2 classrooms per floor, four classrooms in total.
2. One Link Buildings from the classroom addition to the existing school.
3. New Electrical Power, Fire Alarm, Fire Protection Sprinklers, Data, Security and Telephone Connections from the Existing school to the new classroom addition, and New Electrical Power, Fire Alarm, Lighting, Security, Fire Protection Sprinklers and Heating for the new link building.
4. New Acoustical or drywall ceilings with-in the existing schools to accommodate utility tie-ins to the addition.
5. New Site features and amenities to accommodate the classroom addition and link building.
6. New structural components for the classroom addition and link building.
7. Meet building commission monthly to report on project status.

## Flansburgh Architects

### SCOPE OF SERVICES

We have included Cost estimating, Structural, HVAC, Fire Protection, Survey, Civil, Landscaping, Technology and Electrical consulting services within our Basic Services. Any other specialty consultants required for the project can be provided directly by town or added to our services. We understand that the Town of Brookline will provide existing building and site drawings. Our Basic Services consist of the phases described below.

#### Phase I - Construction Documents

The purpose of this phase is to prepare construction drawings and specifications based on the approved design plans that are suitable for bidding and construction of the project under M.G.L. c. 149.

1. Host consultant team for CD Phase kickoff.
2. Confirm with engineers on MEP and structural requirements.
3. Develop Construction Documents.
4. Produce 60% progress set for review and Cost Estimate.
5. Adjust CDs given cost estimate modifications, owner comments and fine tune for final Bid Set.
6. Produce final Bid Set Drawings and Specifications

#### Phase II - Bidding

The purpose of this phase is to assist the town in obtaining competitive price and non-price proposals for construction.

1. Advertise in *Central Register*.
2. Schedule pre-bid meeting on site.
3. Field questions and clarifications from bidders.
4. Issue addenda, if necessary.
5. Conduct bid opening and review bids for both filed subs and general contractors.
6. Field bid protests, if any.
7. Assist Owner in finalizing contract with apparent low bidder.

#### Phase IV - Construction Administration

The purpose of this phase is to observe and administer construction activities, to certify applications for payment, and to determine the date of substantial completion of construction.

1. Construction kickoff meeting including all parties.
2. Review builder's construction schedule, schedule of values, shop drawings, etc.
3. Attend the weekly site meetings and observe the construction.
4. Administer construction contract (RFIs, ASIs, requisitions for payment, etc.).
5. Close out contract for scope of work outlined in the contract documents.

## Flansburgh Architects

### SCHEDULE

We anticipate requiring the following schedule. Please expand these schedule estimates if necessary to cover your review and approval process. We will proceed on the Towns notice of award; an anticipated project schedule is included as an attachment to this proposal.

I.	Construction Documents	8 weeks
II.	Bidding	4 weeks
III.	Construction Administration	40 weeks

### COMPENSATION FOR PROFESSIONAL SERVICES

1. Basic Services: The compensation for Basic Services shall be as follows. If the services described in this Agreement or the scope of this project as now contemplated should materially change, or should this project be subject to delays beyond the reasonable control of the Architect, the compensation set forth below shall be subject to equitable adjustment.

#### Stipulated Sum

Compensation shall be a Stipulated Sum of \$ 171,000.00. Progress payments shall be made monthly in proportion to services performed within each phase of service, so that Basic Compensation in each phase shall total the following percentages of the total Basic Compensation payable:

60% Construction Documents  
5% Bid  
35% Construction Administration

2. Additional Services: Additional Services are billable on a time and material basis at the hourly rates listed below or at a mutually agreed upon fixed fee. All hourly rates are subject to adjustment in accordance with normal annual salary adjustments. These include services you may elect to add to the agreed scope of work as well as revisions to previously approved work.

President/Vice Presidents/Principals	\$250.00 - 275.00/hr.
Sr. Associates & Associates	\$125.00 - \$250.00/hr.
Project Architects & Designers	\$80.00 - \$125.00/hr.
Technical Professionals & Draftspersons	\$55.00 - \$80.00/hr.
Administrative Assistants	\$35.00 - \$ 55.00/hr.

## Flansburgh Architects

For the coordination of services of any other consultants not included in our Basic Services as listed above, the Architect shall receive a multiple of 1.1 times the amounts billed to the Architect for such services.

3. Contract Adjustment: This proposal will adjust the current contract as follows:

Total Contract Value to Date: \$111,400

Total billed and paid to Date: \$79,776

Contract Balance Remaining: \$31,624

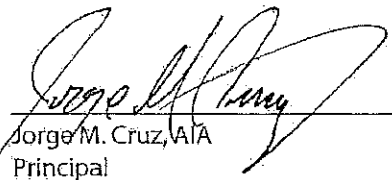
Amendment to the contract \$171,000 (Proposal) - \$31,624 (Contract Balance) = \$139,376.00

Total Contract Value after Amendment  $\$111,400 + \$139,376 = \$250,776.00$

We appreciate the opportunity to be of service and look forward to working with you.

Sincerely,

FLANSBURGH ASSOCIATES, INC.

  
\_\_\_\_\_  
Jorge M. Cruz, AIA  
Principal

Attachments: Concept Budget dated 1/17/14

Anticipated Project Schedule dated 3/31/14



**Flansburgh Architects**

Amos A. Lawrence School

**Anticipated Project Schedule**

3/31/14

Start Construction Documents	April 14, 2014
60% Bid Documents to Cost estimator	May 12, 2014
Notify Central register	May 23, 2014
100% Bid Documents	June 2, 2014
Ad Appears in Central register	June 4, 2014
FTP site and CD available	June 4, 2014
Brookline Posts Ad at School and local paper	June 4, 2014
Walkthrough	June 11, 2014
Filed Sub-Bids due	June 18, 2014
GC Bids due	July 2, 2014
GC Contract Award	August 1, 2014
GC Construction Mobilization	August 6, 2014
Substantial Completion	May 16, 2015
Final Completion	July 16, 2015

# Lawrence School Concept Budget

17-Jan-14

 Bid period  
March @ 2014

## COST OF Conventional Construction - Chapter 149

New construction	\$3,047,692	
Total		\$3,047,692
CONSTRUCTION CONTINGENCY		
Construction / Project	\$150,000	
Owners contingency	\$75,000	
Total		\$225,000
DESIGN AND ENGINEERING FEES		
Basic Services	\$160,000	
Total		\$160,000
FURNITURE AND EQUIPMENT		
Furniture Acquisition	\$15,000	
Total		\$15,000
COMPUTER/TECHNOLOGY/ TELEPHONES		
Equipment	15,000	
Total		\$15,000
ADDITIONAL PROJECT COSTS		
1 Surveying	\$0	
2 Geotech Testing	\$0	
3 Civil Engineering / Landscaping	\$6,000	
4 Food Service	\$0	
5 Acoustics	\$0	
6 Cost Estimating	\$8,000	
7 Graphics	\$0	
8 Testing and monitoring at Construction	\$25,000	
9 Bidding Printing, Addendum & Distribution	\$4,000	
10 Legal, bonding costs	\$0	
11 Reimbursable Expenses	\$4,000	
12 Project manager and clerk	\$0	
13 Security Consultants	\$0	
14 Environment Testing	\$0	
15 Environmental Impact Report	\$0	
16 Gas Company Charges	\$0	
17 Electric Company Charges	\$0	
18 Other Utilities	\$0	
19 Model / Rendering	\$0	
20 Traffic Consultant	\$0	
21 Asbestos report and monitoring services	\$0	
21 Budget / Auditing Services	\$0	
22 Misc. Expenses	\$1,000	
Total		\$48,000
TOTAL PROJECT COST		\$3,510,692

Printed by: **Patty Parks**

Monday, April 14, 2014 2:15:47 P

Title: **BOS Agenda 4/17/2014 : Brookline E-Mail System**

Page 1 of






From:  **Tony Guigli**


Friday, April 11, 2014 1:09:32 PM



Subject: **BOS Agenda 4/17/2014**

To:  **Sean Cronin**

Cc:  **Patty Parks**  **Dave Geanakakis**  **Peter Rowe**  **Dan Bennett**  
 **Jan LaVoie**

Attachments:  fogarty\_201404111309.pdf / Adobe Acrobat Document (3.7M)

Sean, please add the following contract to the agenda of the BOS meeting:

Devotion School Project cost estimating services, A.M. Fogarty & Associates, Inc., \$79,500.00.

2513K119 6B0120

Originals are with the Comptrollers Office for code confirmation.

Thank you.

## 1.0 CONSULTANT PROPOSAL FORMS

NAME OF COMPANY: A.M. FUGARTY & Assoc. Inc.

NAME OF PROPOSAL: Estimating Consulting Services for  
the Devotion School Project - P-14-17

DATE: Jan. 27, 2014

ALL OF THE FOLLOWING FORMS  
MUST BE SUBMITTED WITH PROPOSAL  
SUBMIT THIS PAGE WITH ENVELOPE "A" AND "B"

**TO BE SUBMITTED IN ENVELOPE "A "**VENDOR'S NAME: A. M. FOGARTY & ASSOCIATES, INC.DATE: January 27, 2014NAME OF COMPANY: A. M. FOGARTY & ASSOCIATES, INC.PROPOSAL PRICING SHEET - submit hourly rates (refer below)

Independent Cost Estimates		
Task 4.1.1 - Up to two estimates	(Feasibility/Study)	<u>\$ 8,000</u> /per estimate
	(Schematic)	<u>\$ 15,000</u> /per estimate
Task 4.1.2 - One Estimate		<u>\$ 22,500</u> /per estimate
Task 4.1.3 - 60% CD estimate		<u>\$ 22,500</u>
Task 4.1.3 - 90% CD estimate		<u>\$ 11,500</u>

<b>GRAND TOTAL:</b> <u>\$ 79,500</u>
--------------------------------------

## Hourly Rate Schedule

Title	Rate/Hr.
Principal	\$155
Sr. Estimator	\$135
Mech/Elec. Estimator	\$145
Admin	\$ 72

## 1.0 CONSULTANT PROPOSAL FORMS

NAME OF COMPANY: A.M. FOGARTY & ASSOC. INC.

NAME OF PROPOSAL: Estimating Consulting Services for  
the Devotion School Project - P-14-17

DATE: JAN. 27, 2014

ALL OF THE FOLLOWING FORMS  
MUST BE SUBMITTED WITH PROPOSAL  
SUBMIT THIS PAGE WITH ENVELOPE "A" AND "B"

TOWN OF BROOKLINE - PURCHASING DIVISION

REQUEST FOR PROPOSALS

ESTIMATING CONSULTING  
SERVICES

TOWN OF BROOKLINE

BUILDING DEPARTMENT

333 WASHINGTON STREET

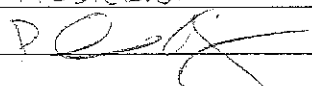
BROOKLINE, MA 02445

<u>SECTION</u>	<u>PAGE</u>
I. FORMS	
1. CONSULTANT PROPOSAL FORMS	2
PROPOSAL PRICING SHEET	3
CONSULTANT INFORMATION	4
NON-COLLUSION FORM	5
TAX COMPLIANCE FORM	5
2. MINIMUM EVALUATION CRITERIA FORM	6
3. REFERENCES	7
4. FORMS OF AGREEMENT	8
II. SPECIFICATION AND TERMS	
1. GENERAL INFORMATION	12
2. SCOPE OF SERVICES	13
3. SPECIFIC REQUIREMENTS	14
4. CONTRACT TERMS AND CONDITIONS	14

COMPANY NAME: A. H. FOGARTY & ASSOC., INC.

TO BE SUBMITTED IN ENVELOPE "B"  
FORM FOR GENERAL PROPOSAL

CONSULTANT INFORMATION

NAME OF COMPANY: A.M. Fogarty & Associates, Inc.  
 ADDRESS: 175 Derby Street, Suite 5  
 CITY/ST/ZIP: Hingham MA 02025  
 TELEPHONE: 781 749-7272 FAX: 781-749-2652  
 EMAIL: ptim@amfogarty.com  
 SS NO. OR FID NO.: 04-2681862  
 PERSON PROPOSALDING: Peter Timothy  
 TITLE: President  
 SIGNATURE:  DATE: Jan 27, 2014

CORPORATION: A.M. Fogarty & Associates, Inc.

If the Vendor is a corporation, indicate State of incorporation and affix corporate seal.

PRESIDENT: Peter Timothy TREASURER: Peter Timothy  
 SECRETARY: Peter Timothy STATE: Pete Timothy

PARTNERSHIP: LIST ALL PARTNERS WITH HOME ADDRESSES

SEAL N/A

1 NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY/ST/ZIP: \_\_\_\_\_  
 TELEPHONE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
 2 NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY/ST/ZIP: \_\_\_\_\_  
 TELEPHONE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
 3 NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY/ST/ZIP: \_\_\_\_\_  
 TELEPHONE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

INDIVIDUAL: PROVIDE OWNER'S HOME ADDRESSES

NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY/ST/ZIP: \_\_\_\_\_  
 TELEPHONE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_



## TO BE SUBMITTED IN ENVELOPE "B"

## CERTIFICATE OF NON-COLLUSION - NON COLLUSION AFFIDAVIT

The undersigned certifies under penalties of perjury that this PROPOSAL or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature: \_\_\_\_\_

Date: Jan 27, 2014

Name of Person signing PROPOSAL: \_\_\_\_\_

PETER TIMOTHY

Name of Business: \_\_\_\_\_

A.M. Fogarty & Associates, Inc.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Person signing PROPOSAL: \_\_\_\_\_

Name of Business: \_\_\_\_\_

## TAX COMPLIANT FORM

Pursuant to M.G.L. c. 62C, Ch. 49A and M.G.L. Ch. 151A, sec. 19A, I do hereby certify under the penalties of perjury that, my company has filed all state tax returns and paid all taxes required by law and complied with all state laws pertaining to contributions to the unemployment compensation fund and to payments in lieu of contributions. Signed under the penalties of perjury --

Signature: \_\_\_\_\_

Date: Jan 27, 2014

Name of Person signing PROPOSAL: \_\_\_\_\_

PETER TIMOTHY

Name of Business: \_\_\_\_\_

A.M. Fogarty & Associates, Inc.

## TO BE SUBMITTED IN ENVELOPE "B"

## 2.0 MINIMUM EVALUATION CRITERIA FORM

## A. PRIMARY BUSINESS: ESTIMATING CONSULTATION SERVICES

Please provide a brief description of company's capabilities as it relates to this PROPOSAL:

A. H. Fogarty is a construction cost consultant operating in the state of Massachusetts since 1972. Our staff includes two mechanical/electrical estimators and three project estimators. We typically estimate on average ten MSBA school projects a year. The average years of experience per employee is 30.

PROVIDE ALL SUPPORTING DOCUMENTATION

## B. COMPANY MINIMUM YEARS: 5 YEARS the company must be in business for the minimum number of years required. we are 2 years

Please provide a brief description of company's service history as it relates to this PROPOSAL:

A. H. Fogarty typically completes ten MSBA school projects per year. We have a very good track record of budget to bid. Our last school project for the Town of Brookline was the Runkle School which we were contracted by the Town in a similar capacity as the proposed Devotion School Project.

PROVIDE ALL SUPPORTING DOCUMENTATION

Please provide documentation to verify company's business age.

What type of documentation is being provided?: 1992 balance sheet Is documentation attached to this PROPOSAL?: Yes

## C. MINIMUM QUALIFICATIONS - EXPERIENCE

MINIMUM NUMBER OF YEARS EXPERIENCE AS AN ESTIMATOR- PRINCIPLE	10 Years
MINIMUM NUMBER OF YEARS EXPERIENCE AS AN ESTIMATOR- ASSOCIATE	5 Years
MINIMUM NUMBER OF ESTIMATES FOR PUBLIC SECTOR RELATED PROJECTS	10
MINIMUM NUMBER OF ESTIMATES FOR MAJOR SCHOOL RENOVATIONS	3

The CONSULTANT must provide names and years of experience:

EXAMPLE -

Name: \_\_\_\_\_ Title: \_\_\_\_\_ #Yrs/Exper.: \_\_\_\_\_

RESUMES ARE REQUIRED

Provide documentation to document performance regarding accuracy of estimates, include estimate vs actual bid of project

Peter Timothy	President	30 years
Brenda Ripley	Sr. Estimator	30 years
Joel Toaf	Electrical/Mechanical	49 years
Denis Delobry	Electrical	47 years

## TO BE SUBMITTED IN ENVELOPE "B"

## 3.0 REFERENCES:

All CONSULTANTS must submit a complete list of all contracts they have performed similar in size and scope to this PROPOSAL

Contracts/work listed must be performed within the last two years.

COPY AS NEEDED

POOR REFERENCES MAY BE A BASIS FOR A DETERMINATION THAT THE VENDOR IS NOT A RESPONSIBLE VENDOR.

REFERENCE: Will Spears - Miller Per Sago's CONTACT: Will Spears  
ADDRESS: 99 Chauncy St. Boston MA PHONE: 617 338-5350

## DESCRIPTION AND DATE OF SERVICE PROVIDED

Provided construction cost estimate services on the Town of  
Brookline, Heath School - Renovation and Addition Project

ESTIMATE: \$6.9 million G.C BID: \$6.5

REFERENCE: SMMA CONTACT: Lorraine Finnegan  
ADDRESS: 1000 Massachusetts Ave Cambridge MA PHONE: 617 520-9468

## DESCRIPTION AND DATE OF SERVICE PROVIDED

Provided construction cost estimate services for the  
new West Springfield High School

ESTIMATE: \$73 mil. G.C BID: \$70.4 mil

REFERENCE: Collaborative Partners CONTACT: Paul Kalous  
ADDRESS: 330 Congress St., Boston MA PHONE: 617 778-0900

## DESCRIPTION AND DATE OF SERVICE PROVIDED

Provided construction cost estimate services for the  
new East Bridgewater High School

ESTIMATE: \$67.8 MIL G.C BID: \$66.5 MIL

The Town of Brookline reserves the right to check any and all sources for applicable sources for reference checks.

This information will be used in evaluating the SPECIFIED CONSULTANT.

TO BE SUBMITTED IN ENVELOPE "B"  
4.0 FORM OF AGREEMENT

CONTRACT SIGNATURES

**SUBMIT FOUR (4) ORIGINAL COPIES OF PAGES 8 AND 9**

CONSULTANT'S AUTHORIZED SIGNATORY:

The undersigned parties have signed or identified all parts of these documents; this contract being itself signed in three counterparts.

  
SIGNATURE

President  
TITLE

Jan 27, 2014  
DATE

BOARD OF SELECTMEN AUTHORIZED SIGNATORY:

\_\_\_\_\_  
Betsy DeWitt, Chairman

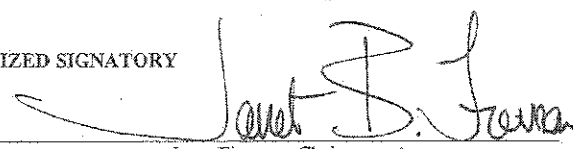
\_\_\_\_\_  
Nancy Daly


\_\_\_\_\_  
Richard W. Benka

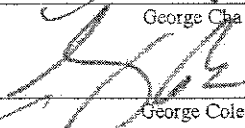
\_\_\_\_\_  
Kenneth M. Goldstein

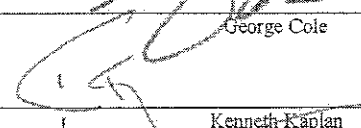
\_\_\_\_\_  
Neil Wishinsky

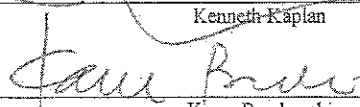
BUILDING COMMISSION AUTHORIZED SIGNATORY

  
Janet Fierman, Chairman

  
George Cha

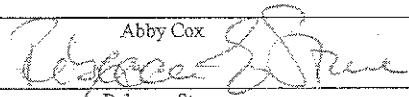
  
George Cole


  
Kenneth Kaplan

  
Karen Breslawski


SCHOOL COMMITTEE AUTHORIZED SIGNATORY

  
\_\_\_\_\_  
Alan Morse, Chairman

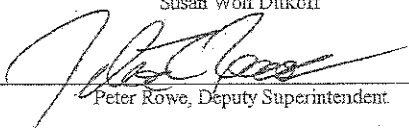
Abby Cox  
  
\_\_\_\_\_  
Rebecca Stone

  
\_\_\_\_\_  
Helen Charupski

  
\_\_\_\_\_  
Barbara Scotto

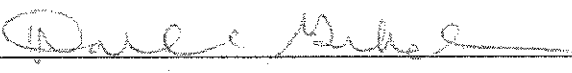
P. H. Benjamin Chang  
  
\_\_\_\_\_  
David Pollak

  
\_\_\_\_\_  
Amy Kershaw

Susan Wolf Ditkoff  
  
\_\_\_\_\_  
Peter Rowe, Deputy Superintendent

CERTIFICATION OF THE CHIEF PROCUREMENT OFFICER OF THE TOWN OF BROOKLINE:

The undersigned hereby certifies that an officer or agent of the Town of Brookline has been authorized to execute this contract and to approve all requisitions and change orders.

  
\_\_\_\_\_  
SIGNATURE

  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

CERTIFICATION OF COMPTROLLER:

The undersigned hereby certifies, pursuant to M.G.L. c. 44, p. 31C, that an appropriation in the amount of this contract has been made and is available therefor.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

TOWN OF BROOKLINE - PURCHASING DIVISION

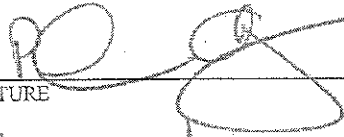
TO BE SUBMITTED IN ENVELOPE "B"  
4.0 FORM OF AGREEMENT

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**SUBMIT FOUR (4) ORIGINAL COPIES OF PAGES 8 AND 9**

CONSULTANT'S AUTHORIZED SIGNATORY:

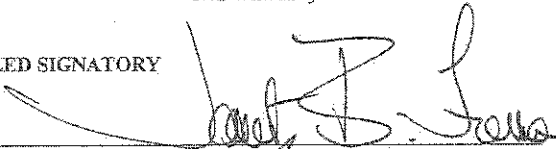
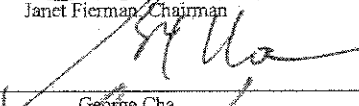

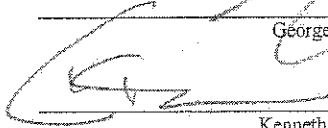
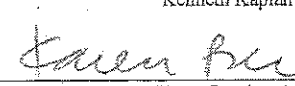
The undersigned parties have signed or identified all parts of these documents; this contract being itself signed in three counterparts.

  
SIGNATURE  
President  
TITLE  
Jan. 27, 2014  
DATE

BOARD OF SELECTMEN AUTHORIZED SIGNATORY:

Betsy DeWitt, Chairman  
Nancy Daly  
Richard W. Benka  
Kenneth M. Goldstein  
Neil Wishinsky

BUILDING COMMISSION AUTHORIZED SIGNATORY

  
Janet Fierman, Chairman  
  
George Cha  
  
George Cole  
  
Kenneth Kaplan  
  
Karen Breslawski

SCHOOL COMMITTEE AUTHORIZED SIGNATORY

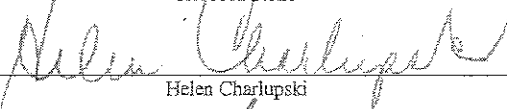


Alan Morse, Chairman

Abby Cox



Rebecca Stone

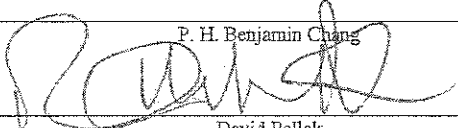


Helen Charlupski

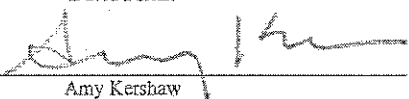


Barbara Scotto

P. H. Benjamin Chang




David Pollak



Amy Kershaw

Susan Wolf Dittkoff



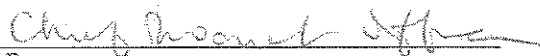
Peter Rowe, Deputy Superintendent

CERTIFICATION OF THE CHIEF PROCUREMENT OFFICER OF THE TOWN OF BROOKLINE:

The undersigned hereby certifies that an officer or agent of the Town of Brookline has been authorized to execute this contract and to approve all requisitions and change orders.



SIGNATURE



TITLE

DATE

CERTIFICATION OF COMPTROLLER:

The undersigned hereby certifies, pursuant to M.G.L. c. 44, p. 31C, that an appropriation in the amount of this contract has been made and is available therefor.

SIGNATURE

TITLE

DATE

TOWN OF BROOKLINE - PURCHASING DIVISION

## TO BE SUBMITTED IN ENVELOPE "B"

## CORPORATE VOTE

If a corporation, complete below or attach to each signed copy of the PROPOSAL/contract a notarized copy of vote of corporation authorizing the signatory to sign this contract. If attesting clerk is same as individual executing contract, have signature notarized below.

At a duly authorized meeting of the Board of Directors of the

A.M. Fogarty & Associates Inc held on Jan 27, 2014  
Corporation Date

at which all the Directors were present or waived notice, it was VOTED that,

Peter Timothy President  
Name Officer

of this company be and hereby is authorized to execute contract and bonds in the name and behalf of said company, and affix its corporate seal

thereto, and such execution of any contract or obligation in this company's name on its behalf by such ROG  
Officer

of the company, shall be valid and binding upon this company.

I hereby certify that I am the Clerk of the A.M. Fogarty & Associates Inc that Peter Timothy

Is duly elected President of said company, and that the above vote has not been amended or rescinded and  
Officer

remains in full force and effect as of the date of this contract.

a true copy,

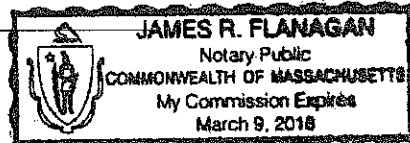
ATTEST ROG  
Clerk

Place of Business Hingham MA  
Corporate

Seal

SWORN TO AND SUBSCRIBED BEFORE ME THIS 27 Jan

DAY OF Jan 20 14



Notary Public



ERNEST P. TASSINARI, INC.

23 Aldrin Road, Plymouth, Massachusetts 02360

A Professional Accounting Corporation

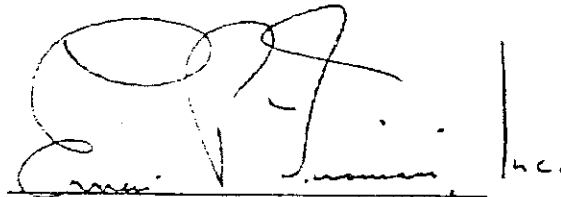
Telephone 617-746-2415

ACCOUNTANT'S REPORT

To the Board of Directors  
A. M. Fogarty & Associates, Inc.

The accompanying balance sheet of A. M. Fogarty & Associates, Inc. as of September 30, 1982, and the related statement of income for the year then ended have been compiled by us.

A compilation is limited to presenting in the form of financial statements information that is the representation of management. We have not audited the accompanying financial statements, and accordingly, do not express an opinion or any other form of assurance on them.



Ernest P. Tassinari, Inc.

Plymouth, MA 02360  
December 2, 1982

## STATEMENT OF PROFIT &amp; LOSS

FOR PERIOD BEGINNING October 1, 1981 AND ENDING September 30, 1982

SALES		\$	277338	84
OPERATING EXPENSES				
Supplies	15384	68		
Auto Expense	13335	49		
Miscellaneous	85	00		
Contract Hire	66559	41		
Gas, Electric & Water	1401	73		
Laundry				
Express	921	40		
Repairs	98	00		
Telephone	6838	16		
Heat (Fuel)	526	18		
Advertising & Promotion	9909	37		
Maintenance	533	00		
Salaries & Wages - Others	56418	38		
Taxes & Licenses	9518	96		
Insurance	1163	00		
Legal & Audit	2986	00		
Interest	699	64		
Rent	1970	25		
Office Expense	475	93		
Travel	2811	90		
Salary, Alfred M. Fogarty	34300	00		
Salary, Sondra C. Fogarty	14500	00		
Employee Benefits	6336	73		
Dues	715	00		
Pension Plan Expense	19982	00		
Pension Consultant Fees	735	00		
Depreciation	8438	00		
Collection Expense	83	60		
TOTAL OPERATING EXPENSES			276726	81
NET PROFIT (OR LOSS)		\$	612	03
Add: Interest Income			2407	18
Miscellaneous Income			107	75
NET PROFIT FROM OPERATIONS			3126	96

2<sup>nd</sup> day of Dec. 19 82

A. M. Fogarty & Assoc., Inc.  
COMPANY NAME

*[Signature]*

BY

TITLE

Note: The accompanying accountant's report should be read in connection with these financial statements.

**A.M. Fogarty**  
**& Assoc., Inc.**

175 Derby St., Suite 5, Hingham, MA 02043  
TEL: (781) 749-7272 • FAX: (781) 740-2652  
ptim@amfogarty.com

*"Construction Cost Consultants"*

**PETER T. TIMOTHY**

Peter Timothy, President of A.M. Fogarty & Associates, Inc. has been a professional construction cost estimator since 1985. His broad depth of construction experience and comprehensive experience in estimating all construction disciplines with a thorough understanding of construction cost consulting making him a valuable member of any design team.

Mr. Timothy's education includes a Bachelor of Science Degree in Construction Management from the University of Wisconsin - Platteville. He continues his education through extended education programs geared towards business and the construction industry.

Prior to joining A.M. Fogarty in 1989, Mr. Timothy was Chief Estimator at Industrial Associates, a large union interiors contractor. His responsibilities included overseeing all public bidding, administering all filed sub-bids, and coordinating general contract work. He was also responsible for initiating "computerized" estimating as well as tracking actual project cost.

In 1989, Mr. Timothy joined A.M. Fogarty & Associates as senior estimator and replaced Al Fogarty as President in 2000. His experiences include budgeting several large scale restoration projects for the National Park Service in New York and Boston; estimating new commuter rail and light rail stations for the Massachusetts Bay Transit Authority; and work for the Massachusetts Housing and Finance Administration and Housing and Urban Development on many public housing projects.

Mr. Timothy's professional capabilities include estimating all civil, structural, architectural, mechanical and electrical trades. It is with this unique combination of abilities that Mr. Timothy has realized great success in predicting construction cost. It is also through the dedication of comprehensive estimating that his clients find his consulting invaluable in anticipating construction costs.

**A.M. Fogarty**  
**& Assoc., Inc.**

175 Derby St., Suite 5, Hingham, MA 02043  
TEL: (781) 749-7272 • FAX: (781) 740-2652  
ptim@amfogarty.com

*"Construction Cost Consultants"*

**BRENDA L. RIPLEY**

Brenda Ripley graduated from Southeastern Massachusetts University, aka University of Massachusetts, Dartmouth, MA in 1984 with a Bachelor of Science Degree in Construction Engineering and received the Commonwealth of Massachusetts E.I.T. Certificate.

Brenda has extensive experience in the construction industry as a field engineer at Logan Airport Terminal C Renovation, project manager on public and private projects and general estimating.

Brenda has been with A.M. Fogarty and Associates since 1994, during that time she has been involved in a variety of projects including:

- Renovations to Hyde Park High School - \$22 million
- Thomas Crane Library - \$10 million
- Various Police and Fire stations
- Historic rehabilitation
- Sterling Rehabilitation Center
- Handicap accessibility renovations
- Athletic facilities
- Churches
- Martha's Vineyard Airport Terminal - \$7 million
- Roxse Homes Development - \$42 million
- Office buildings
- Science and lab buildings

Brenda has an excellent reputation working with Architects and Engineers. Her ability to translate engineering designs, even at the most schematic of levels, into accurate construction costs make her invaluable to A.M. Fogarty's clients.

# A.M. Fogarty & Assoc., Inc.

175 Derby St., Suite 5, Hingham, MA 02043  
TEL: (781) 749-7272 • FAX: (781) 740-2652  
ptim@amfogarty.com

*"Construction Cost Consultants"*

## Firm Description A.M. Fogarty & Associates, Inc.

A. M. Fogarty & Associates, Inc. was founded in 1972 by Alfred Fogarty, with the vision of providing the construction industry with personalized cost estimates of the highest quality. For the past thirty years, A. M. Fogarty & Associates, Inc. has provided Architects, Engineers, Contractors and Owners with timely and highly professional construction cost estimates.

Peter Timothy, Chief Estimator since 1989, replaced Mr. Fogarty as Owner and President of A. M. Fogarty & Associates, Inc. in 2000. Mr. Timothy's extensive background in construction estimating is based on practical and field experience in the industry. Many of our employees and consultants have expertise in all trades and disciplines of construction cost estimating. Mr. Timothy has the unique ability to estimate not only architectural, site and civil trades but has expertise in the mechanical and electrical trades as well. It is through this broad base of ability and expertise that A.M. Fogarty can provide critical personal attention to their projects.

The services we offer include: Budgetary, Schematic, Design Development and Final Bid Construction Estimates. We also provide Change Order Review, Insurance Claim Costing, Quantity Surveys and Value Engineering.

Clients include: the Commonwealth of Massachusetts, City of Boston, National Park Service, Massachusetts Port Authority and the Boston Housing Authority. Our project experience include public housing, historic restoration, commercial and heavy industry facilities, medical facilities, schools and education facilities, transportation facilities, site development and private homes.

Upon request, we will be glad to furnish a list of recent projects, clients, and any requested information. Thank you for your interest.

Peter T. Timothy  
President

175 Derby St., Suite 5, Hingham, MA 02043

TEL: (781) 749-7272 FAX: (781) 740-2652

ptim@amfogarty.com

**A.M. Fogarty**

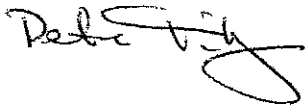
**& Assoc., Inc. "Construction Cost Consultants"**

**INDEMNIFICATION AGREEMENT**

January 27, 2014

With respect to professional and non-professional services rendered by A. M. Fogarty & Associates, Inc., to the fullest extent permitted by the law, A. M. Fogarty & Associates, Inc shall defend, indemnify and hold harmless the Town of Brookline and the Authority, and their officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and cost of investigation and litigation, whatsoever which may be incurred by the Town of Brookline and/or the Authority arising out of or resulting from the performance of its services provided that such claims, damages, liabilities, injuries, costs, fees, expenses or losses are attributable to bodily injury or death or injury to or destruction of tangible property and caused by an act or omission of A. M. Fogarty & Associates, Inc., a person employed by A. M. Fogarty & Associates, Inc. or any of its subconsultants.

Sincerely,



Peter T. Timothy  
President



# CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)  
 3/28/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Hanson Insurance Agency 632 County Road PO Box 668 Hanson MA 02341		<b>CONTACT NAME:</b> Doreen Machado, CISR <b>PHONE (A/C No. Ext.):</b> (781) 293-6376 <b>FAX (A/C No.):</b> (781) 293-2969 <b>E-MAIL ADDRESS:</b> Doreen@hansonins.com	
<b>INSURED</b> A M Fogarty & Associates Inc 175 Derby Street Suite #5 Hingham MA 02043		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Hartford Fire Insurance Co <b>INSURER B:</b> Safety Indemnity <b>INSURER C:</b> Hartford Insurance Company <b>INSURER D:</b> Lloyds of London <b>INSURER E:</b> <b>INSURER F:</b>	
		<b>NAIC #</b> 33618	

**COVERAGES**

CERTIFICATE NUMBER: 2013/11 Master PK BA WC P

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		08SBAPP4785 DW	5/1/2013	5/1/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		5555568	7/17/2013	7/17/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Included Medical payments \$ 5,000
	<b>UMBRELLA LIAB</b> <b>EXCESS LIAB</b> OCCUR CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	08 WECBZ1734	5/1/2013	5/1/2014	WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
D	Professional Liability		ANE1299400-13	10/16/2013	10/16/2014	1,000,000 10,000 retention

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Blanket additional insured coverage applies to all certificate holders when required by written contract on a primary and non-contributory basis with respect to the general liability and auto policies.

**CERTIFICATE HOLDER**

(617) 264-6446

Town of Brookline  
 David Geanakakis, Chief Procurement Office  
 333 Washington Street  
 Second Floor, Room 212  
 Brookline, MA 02445

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

S Lipinski/DOREEN





From:  **Tony Guigli**


Friday, April 11, 2014 1:20:29 PM




Subject: **BOS Agenda 4/17/2014**

To:  **Sean Cronin**

Cc:  **Patty Parks**  **Jan LaVoie**  **Dan Bennett**

Attachments:  **titan\_201404111317.pdf / Adobe Acrobat Document (828K)**

 **systems\_201404111314.pdf / Adobe Acrobat Document (1.5M)**

Sean, please add the following 2 change orders to the agenda of the BOS meeting:

Unified Arts Building Envelope Repairs, Titan Roofing, Inc., Change Order #6, increase \$15,075.00, repair rotted roof structure.

2594C171 6C0002

Systems Electrical Services, Inc., Life Safety Improvements to Fire Stations #1 and #4, Change Order #1, increase \$703.00, Performance and Payment bond adjustments.

2512K098 6B0112

The originals of both are in the Comptrollers Office for code confirmation.

Thank you.

## TOWN OF BROOKLINE

333 Washington Street, Brookline, Massachusetts 02445

### PURCHASE ORDER CHANGE FORM

INVOICE DATE: 07-Apr-14

TO:	Titan Roofing, Inc 70 Orange Street Chicopee MA 01013
-----	---

Purchase Order Number	20143051
-----------------------	----------

Vendor Number	2994
---------------	------

Payment Amount	\$15,075.00
----------------	-------------

BUDGET \$1,117,059.55  
BALANCE 1,017,399.68

FUND	AGENCY	ORGANIZATION	ACTIVITY	OBJECT
		2594C171		6C0002

FOR: Unified Arts Building Envelope Repairs

Change Index #	Date	AMOUNT
6	12/27/2013	\$15,075.00
Repair rotted roof rafter per CSS SKA-6A AND SKA-6B		

#### BUILDING COMMISSION

APPROVAL OF:

Janet Fierman, Chairman

George Cha

George Cole

Kenneth Kaplan

Karen Breslawski

#### BOARD OF SELECTMEN

APPROVAL OF:

Betsy DeWitt, Chairman

Nancy Daly

Richard W. Benka

Kenneth M. Goldstein

Neil Wishinsky

#### SCHOOL COMMITTEE

APPROVAL OF:

Peter Brown, Assistant Superintendent for Administration and Finance

John R. Moore  
John R. Moore  
Barbara Sutton  
Kerene Estun  
Amy Kim

# CHANGE ORDER

Owner ☐  
 Architect ☒  
 Contractor ☐  
 Field ☐  
 Other ☐

PROJECT:  
 Building Envelope Repairs to  
 Unified Arts Building  
 Brookline, MA 02445

CHANGE ORDER NUMBER: 6

DATE: December 27, 2013

ARCHITECT'S PROJECT NO: 1107

TO CONTRACTOR:  
 Titan Roofing, Inc.  
 70 Orange Street  
 Chicopee, MA 01013

CONTRACT DATE: 6/26/13

CONTRACT FOR:  
 Building Envelope Repairs  
 To The Unified Arts Building

The Contract is changed as follows:

Repair rotted roof rafter as per CSS SKA-6A and SKA-6B. Repairs to include all temporary bracing, demolition, temporary roof covering, installation of all new framing, blocking, roof sheathing, minor masonry cutting and repair, hoisting and staging.

Not valid until signed by the Owner, Architect and Contractor.


The original (Contract Sum) was .....	\$1,051,600.00
Net change by previously authorized Change Orders .....	\$65,459.55
The Contract Sum prior to this change order was .....	\$1,117,059.55
The (Contract Sum will be <u>increased</u> by this Change Order in the amount of .....	\$15,075.00
The new Contract Sum including this Change order will be: .....	\$1,132,134.55
The Contract Time will be <u>changed</u> by .....	(0) days


Note: This summary does not reflect changes in the Contract Sum, Contract Time or Guarantee Maximum Price which have been authorized by Construction Change Directive.

CSS Architects Inc  
 ARCHITECT  
 107 Audubon Road, Bldg. 2, Suite 300  
 Wakefield, MA 01880  
 Address

Titan Roofing, Inc.  
 CONTRACTOR  
 70 Orange St.  
 Chicopee, MA 01013  
 Address

Town of Brookline  
 OWNER  
 333 Washington Street  
 Brookline, MA 02146  
 Address

By:   
 DATE: 12/4/13

By:   
 DATE: 3/31/13

By: \_\_\_\_\_  
 DATE: \_\_\_\_\_

CSS Architects Inc.



107 Audubon Road  
Building 2, Suite 300  
Wakefield, MA 01880

Tel: 781-245-8400  
Fax: 781-245-9372  
Email: [css@cssarchitects.com](mailto:css@cssarchitects.com)

# Memo

12/27/13

To: Tony Guigli – Town of Brookline

From: Gregory Rochlin – CSS Architects

Re: Change Order #6 – Repair rotted roof rafter as per SKA-6A and SKA-6B. Repairs to include all temporary bracing, demolition, temporary roof covering, installation of all new framing, blocking, roof sheathing, minor masonry cutting and repair, hoisting and staging.

CSS Architects has reviewed Titan's Roofing request dated 12/18/13 summarizing the work they were requested to perform to repair the rotted roof framing as per CSS SKA-6A and SKA-6B.

The work to effect the repair was observed to take three days with one foreman and three mechanics. Titan's 24 hours of foreman and 96 hours of mechanic labor are correct. In addition Titan did spend four mechanic hours when the rotted rafter was discovered to temporarily close the roof.

The materials listed in Titan's request are the materials that were used exclusively for the repair. Because of the sized of the beams required for the repair, Titan had to employ a crane, which was not needed for the contract work, to hoist and place the new beams.

As all contract work was complete, except the contract work which could not be completed until the rotted roof framing was repaired, Titan had to keep scaffolding in place which otherwise would have been removed from the job. The total time from the discovery of the rotted roof framing until the work was completed and inspected was 23 days which is reflected in the additional scaffolding rental.

Titan's request for overhead, profit and addition bond fees are consistent with the contract agreement.

CSS Architects would recommend that the Town of Brookline pay Titan Roofing for this additional work for a total of \$15,075.00

cc: John Savasta  
John Savasta  
Jon Bates - Titan Roofing

## TOWN OF BROOKLINE

333 Washington Street, Brookline, Massachusetts 02146

## PURCHASE ORDER INCREASE FORM

INVOICE DATE: 28-Mar-14

TO:	Systems Electrical Services, Inc 5 Wesley Street Chelsea MA 02150
-----	---

Purchase Order Number

20148392

Vendor Number

48634

PAYMENT AMOUNT

\$703.00

BUDGET \$331,165.00  
BALANCE \$331,868.00

FUND	ORGANIZATION	ACTIVITY	OBJECT
	2513K098		6B0112
	2512K098		6B0112

FOR: Fire Station #1 and #4 Life Safety Improvements

Change Order #	Date	
1	03/28/2014	Added performance and payment bond costs

AMOUNT  
\$703.00

## BUILDING COMMISSION

APPROVAL OF:

Janet Fierman, Chairman

George Cha

George Cole

Kenneth Kaplan

Karen Breslawski

## BOARD OF SELECTMEN

APPROVAL OF:

Betsy DeWitt, Chairman

Nancy Daly

Richard W. Benka

Kenneth M. Goldstein

Neil Wishinsky

# **AIA Document G701™ – 2001**

## Change Order

<b>PROJECT:</b> <i>(Name and address)</i> Fire Stations #1 and #4 Brookline, MA	<b>CHANGE ORDER NUMBER:</b> 001  <b>DATE:</b>  <b>ARCHITECT'S PROJECT NUMBER:</b>	<b>OWNER</b> <input checked="" type="checkbox"/>  <b>ARCHITECT</b> <input checked="" type="checkbox"/>  <b>CONTRACTOR</b> <input checked="" type="checkbox"/>  <b>FIELD</b> <input type="checkbox"/>  <b>OTHER</b> <input type="checkbox"/>
<b>TO CONTRACTOR:</b> <i>(Name and address)</i> Systems Electric Services Inc 5 Wesley Street Chelsea, MA 02150	<b>CONTRACT DATE:</b> March 18, 2014  <b>CONTRACT FOR:</b> Life Safety Improvements	

The Contract is changed as follows:

*(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)*

COP #2 for bond increase in the amount of \$703.00

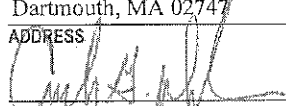
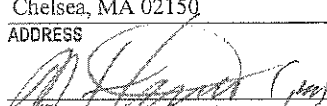
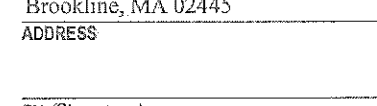
The original	Contract Sum	was	\$	<u>331,165.00</u>
The net change by previously authorized Change Orders			\$	<u>0.00</u>
The	Contract Sum	prior to this Change Order was	\$	<u>331,165.00</u>
The	Contract Sum	will be increased by this Change Order in the amount of	\$	<u>703.00</u>
The new	Contract Sum	, including this Change Order, will be	\$	<u>331,868</u>

The Contract Time will be unchanged by Zero ( 0 ) days.

The date of Substantial Completion as of the date of this Change Order, therefore, is

*(NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.)*

**NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.**

Garcia, Galuska & DeSousa, Inc. <b>ARCHITECT (Firm name)</b>	Systems Electrical Services, Inc. <b>CONTRACTOR (Firm name)</b>	The Town of Brookline <b>OWNER (Firm name)</b>
370 Faunce Corner Road Dartmouth, MA 02747 <b>ADDRESS</b>	5 Wesley Street Chelsea, MA 02150 <b>ADDRESS</b>	333 Washington Street Brookline, MA 02445 <b>ADDRESS</b>
 <b>BY (Signature)</b>	 <b>BY (Signature)</b>	 <b>BY (Signature)</b>
Carlos G. DeSousa, P.E. <b>(Typed name)</b>	Nicholas D'Angelo P <b>(Typed name)</b>	 <b>(Typed name)</b>
3.28.14 <b>DATE</b>	 <b>DATE</b>	 <b>DATE</b>



5 Wesley Street  
Chelsea, MA 02150  
Office: (781) 289-7864  
Fax: (617) 466-0923

## CHANGE ORDER PROPOSAL

**Project Title:** FIRE STATION 1&4 LIFE SAFETY IMPROVEMENTS

**Customer:** TOWN OF BROOKLINE

**Architect:** GARCIA GALUSKA DESOUSA ENGINEERS

**Project Number:** B-13-02

**Building Number:**

**Date:** 3/26/2014

**COP#:** 2

We are pleased to provide you with this COP #2 detailing proposed changes to the existing contract.

Please see attached invoices reflecting our original bond cost as well as our adjusted bond cost due to the increase in the contract amount. Please note the reason for the change in the contract amount was due to the increase in bid price from the Filed Sub bid which was presented to us after General bids were opened. The COP #2 amount is the difference in cost for the Performance Bond.

**Original Contract Amount:** \$331,165.00

**Net Change from prior CO:** \$0.00

**Total Amount of this CO:** \$703.00

**Adjusted Gross Contract:** \$331,868.00

### ACCEPTANCE OF PROPOSAL

*Contractor Signature*

*Nicholas D'Angelo*

Nicholas D'Angelo Jr.  
General Manager

*Customer Signature*

Town of Brookline

Date:

## DeSanctis Insurance Agency, Inc.

100 Unicorn Park Drive  
Woburn, MA 01801  
Phone : 781-935-8480 Fax : 781-933-5645

Systems Electrical  
Services, Inc.  
5 Wesley Street  
Chelsea, MA 02150

<b>INVOICE #</b> 98296		Page 1
ACCOUNT NO. SYSTE-2	OF RS	DATE 03/26/14
<b>Bond</b>		
POLICY # 2177943		
COMPANY North American Specialty		
PRODUCER David A. Boutiette		
EFFECTIVE 03/05/14	EXPIRATION 03/05/15	

SAMPLE

Item #	Eff Date	Trn	Description	Amount
233609	03/05/14	NEW	P&P/Brookline/Fire Station 1 &	\$ 5,264.00
Invoice Balance:				\$ 5,264.00

## Performance and Payment Bond

OBLIGEE: Town of Brookline, 333 Washington Street, Brookline  
, MA 02445

PROJECT: Fire Station #1 & #4 - Life Safety Improvements, Br  
ookline Ma

CONTRACT PRICE: \$284,265

## \*\* Please Note:

This is a sample invoice based on a contract price of \$284,265.

Actual invoice billed on 3/21/14. Invoice #98229 for \$5,967 based on the  
actual contract price of \$331,165

Original cost 5,264  
adjusted cost 5,967  
Difference \$703.00

Finance Charge of 1.5% per month will apply to any item  
remaining unpaid 60 days after the month it was billed in



## DeSanctis Insurance Agcy, Inc.

100 Unicorn Park Drive  
Woburn, MA 01801  
Phone: 781-935-8480 Fax: 781-933-5645

Systems Electrical  
Services, Inc.  
5 Wesley Street  
Chelsea, MA 02150

<b>INVOICE # 98229</b>		Page 1
<b>SYSTE-2</b>	<b>RS</b>	<b>03/21/14</b>
<b>Bond</b>		
<b>2177943</b>		
<b>North American Specialty</b>		
<b>David A. Boutiette</b>		
<b>03/05/14</b>	<b>03/05/15</b>	

Item #	Est. Date	Est	Description	Amount
233339	03/05/14	NEW	P&P/Brookline/Fire Station 1 &	\$ 5,967.00
Invoice Balance:				\$ 5,967.00

Performance and Payment Bond

OBLIGEE: Town of Brookline, 333 Washington Street, Brookline  
, MA 02445

PROJECT: Fire Station #1 & #4 - Life Safety Improvements, B  
rookline MA

CONTRACT PRICE: \$331,165

Finance Charge of 1.5% per month will apply to any item  
remaining unpaid 60 days after the month it was billed in



TOWN OF BROOKLINE  
APPLICATION FOR A TEMPORARY WINE AND MALT ALCOHOLIC  
BEVERAGES SALES LICENSE

Date: 4/4/14

I hereby make application for a TEMPORARY ALCOHOLIC BEVERAGE LICENSE  
for the purpose of selling and dispensing WINE AND MALT alcoholic beverages  
permitted by law at a

banquet  
(state whether meeting, banquet, concert, picnic, wedding, etc.)

which is to be held by Boston University - School of Hospitality  
(Name of Organization)

775 Commonwealth Avenue  
(Address of Organization)

a educational organization, on the 30<sup>th</sup> day of April  
between the hours of 430pm-6pm at the following described place:

928 Commonwealth Avenue

[NOTE: Under state law, temporary licensees may not sell alcoholic beverages between  
the hours of 2 a.m. and 8 a.m.]

State law permits issuance of a temporary license to sell alcohol only to the responsible  
manager of an organization.

The above organization represents and warrants that the following individual is the  
organization's responsible manager:

Name: Debra Dewar Address: 24 B Mt Vernon St Dorch Ma.

Title: Director of Catering Date of Birth: 8/14/61

Telephone number(s) (24-hour contact information): 617-353-8122

Email address(es): ddewar@bu.edu

Complete name and address of officer of the organization applying:

Name: Jerry Mahoney Title: \_\_\_\_\_ Address: 775 Commonwealth Ave  
Boston

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_

1) How many cases or barrels, etc. of malt or wine beverages are to be available for sale?

2 cases wine, 2 cases beer

2) What is the maximum number of people to attend? 75 ppl

3) What is the age group of people to attend? 21+ to 80 years of age

4) Are you charging an admission fee? no

5) How will alcoholic beverages be dispensed or served and by whom? Please state the names, addresses and telephone numbers of all person(s) serving alcoholic beverages.

TIPS trained waitstaff & bartenders from  
Catering on the Charles 617-353-8122

6) State whether or not the person(s) dispensing or serving alcohol received TIPS certification or equivalent safe-service-of-alcohol training, and the date(s) of any such certification or training. (PLEASE ATTACH DOCUMENTATION PERTAINING TO SUCH CERTIFICATION OR TRAINING.): yes

7) If any attending are under age 21, what method will be used to check I.D. and what procedures will be followed to make certain that those under age 21 are not served and are not allowed to consume alcoholic beverages? TIPS certified

bartenders and managers to check ID's for  
anyone looking under 25

8) Will a police detail or other types of security be provided? BUPD to monitor

If "Yes" what type and how many? TBD

Note: Police details are arranged for by contacting the Brookline Police Department.

9) If different from the responsible manager identified above, please state the name, address, age, and 24-hour contact information of the official, employee, or representative of the organization who will be physically present at the event and who has been duly authorized by the organization to be responsible for supervising the event to ensure compliance with all applicable federal, state, and local laws, regulations, ordinances and conditions on the license and maintenance of order and decorum:

(Name) Same as above (Address) \_\_\_\_\_ (Date of Birth) \_\_\_\_\_

Telephone number(s) (24-hour contact information): \_\_\_\_\_

Email address(es): \_\_\_\_\_

10) Does the organization have a pending application for a liquor license as a common victualler, innholder or club? Is the premises for which a temporary license is sought already the subject of a liquor license? \_\_\_\_\_ Yes \_\_\_\_\_ No

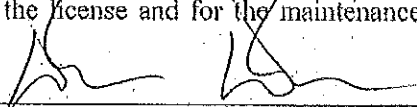
If the answer is yes to either question, please detail: n/a

11) Please describe the portion(s) of the premises where the sale, storage and/or furnishing of alcohol will take place, including a specification and description of all indoor and outdoor portions of the premises (e.g., in the case of a function, table areas, bars, dance floors, tented area, etc.): Lobby of SHH - 928

Commonwealth Avenue

**Town Property Use:** In the event that the applicant seeks to use a Town property in connection with the event that is the subject of this application, this application must be accompanied by proof that the applicant has secured, and that there is in effect during the period of time for which the license is sought, a general liability policy naming the Town as an additional insured, or, if the general liability policy exempts alcohol-related incidents or occurrences, a liquor liability policy naming the Town as an additional insured. By signing this application, the organization and its officers, employees, agents and representatives absolve the Town and its officials, officers, employees, agents and representatives from all liability in connection with the applicant's proposed use. By signing this application, the organization agrees to indemnify the Town for any damage to the Town's personal and real property resulting from the use, and agrees to indemnify the Town for any expenses the Town incurs in restoring the property to its condition prior to the use (in excess of any routine cleaning and maintenance service the Town would ordinarily have performed irrespective of the use).

**Certification:** I certify that I, as the responsible manager of the organization, have been duly authorized to apply for this license on behalf of the organization, and that I will be responsible for the organization's compliance with all applicable federal, state, and local laws, regulations, ordinances and conditions on the license and for the maintenance of order and decorum at the event.

  
Signature of Responsible Manager

**IMPORTANT:** Keep a copy of this card for your records. Write down your certification number because you will need it when contacting TIPS. For assistance or additional information, contact Health Communications, Inc. by using the information provided on the reverse side of your certification card. There is a minimal charge for a replacement card if your original card becomes lost, damaged or stolen.

**TIPS** On Premise SSN: XXX-XX-XXXX  
 Issued: 3/5/2013 Expires: 2/14/2016  
 ID#: 3417188 D.O.B.: XXX/XX/XXXX

**KIMBERLY D LEONARDI**  
 775 Commonwealth Ave  
 Boston, MA 02215-1401

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Ivana Garside, 55262

**IMPORTANT:** Keep a copy of this card for your records. Write down your certification number because you will need it when contacting TIPS. For assistance or additional information, contact Health Communications, Inc. by using the information provided on the reverse side of your certification card. There is a minimal charge for a replacement card if your original card becomes lost, damaged or stolen.

**TIPS** On Premise SSN: XXX-XX-XXXX  
 Issued: 3/5/2013 Expires: 2/14/2016  
 ID#: 3417186 D.O.B.: XXX/XX/XXXX

**DEBRA A DEWAR**  
 775 Commonwealth Ave  
 Boston, MA 02215-1401

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Ivana Garside, 55262

## This is your Official TIPS® Certification Card.

Carry it with you as evidence of your skills and knowledge in the responsible sale and consumption of alcohol.

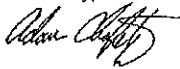
### Congratulations!

By successfully completing the TIPS (Training for Intervention Procedures) program, you have taken your place in the forefront of a nationwide movement to reduce the tragedies resulting from the misuse of alcohol. We value your participation in the TIPS program.

You will help to provide a safer environment for your patrons, peers and/or colleagues by using the techniques you have learned and taking a positive approach towards alcohol use.

If you have any information you think would enhance the TIPS program, or if we can assist you in any way, please contact us at 703-524-1200. Thank you for your dedication to the responsible sale and consumption of alcohol.

Sincerely,



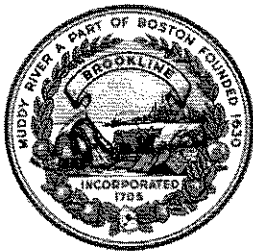
Adam F. Chafetz  
 President, HCI

**IMPORTANT:** Keep a copy of this card for your records. Write down your certification number because you will need it when contacting TIPS. For assistance or additional information, contact Health Communications, Inc. by using the information provided on the reverse side of your certification card. There is a minimal charge for a replacement card if your original card becomes lost, damaged or stolen.

**TIPS** On Premise SSN: XXX-XX-XXXX  
 Issued: 3/5/2013 Expires: 2/14/2016  
 ID#: 3417185 D.O.B.: XXX/XX/XXXX

**AMY P MENDEZ**  
 775 Commonwealth Ave  
 Boston, MA 02215-1401

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Ivana Garside, 55262



## BROOKLINE POLICE DEPARTMENT

*Brookline, Massachusetts*

DANIEL C. O'LEARY  
CHIEF OF POLICE

To: Chief Daniel O'Leary

From: Lieutenant Derek Hayes

Re: Boston University One Day Liquor License: 04-30-14

Date: April 9<sup>th</sup>, 2014

---

Sir,

Larry Mahoney (Representative of Trustees) on behalf of Boston University has applied for a Temporary One Day Wine and Malt license for a Banquet hosted by the Boston University School of Hospitality to be held on Wednesday April 30<sup>th</sup>, 2014 between 4:30pm and 6pm. The event will be held at 928 Commonwealth Ave which is a building owned and operated by Boston University.

This event is expecting no more than seventy five attendees varying in age. This event is open to the public. The alcoholic beverages will be served by TiPS certified bartenders from Catering on the Charles. These bartenders will also be checking attendees' identification. Copies of the bartender's TiPS certifications were submitted. Available to the attendees will be two cases beer and two cases of wine.

The responsible manager who will be on site during this event is Catering on the Charles Director of Catering, Debra Dewar.

This event has adequate parking and is accessible to public transportation. BUPD will monitor this event.

I see no reason to deny this Temporary License.

Respectfully Submitted,



**M. - 6**

Lieutenant Derek Hayes





**TOWN OF BROOKLINE**  
**APPLICATION FOR A TEMPORARY WINE AND MALT ALCOHOLIC**  
**BEVERAGES SALES LICENSE**

Date: 4/1/14

I hereby make application for a TEMPORARY ALCOHOLIC BEVERAGE LICENSE  
 for the purpose of selling and dispensing WINE AND MALT alcoholic beverages  
 permitted by law at a

WBUR ON TAP  
 (state whether meeting, banquet, concert, picnic, wedding, etc.)

which is to be held by Boston University, WBUR  
 (Name of Organization)

890 Commonwealth Ave,  
 (Address of Organization)

a non profit organization, on the 1 day of May  
 between the hours of 5:30-7pm at the following described place:

WBUR Event Room

[NOTE: Under state law, temporary licensees may not sell alcoholic beverages between the hours of 2 a.m. and 8 a.m.]

State law permits issuance of a temporary license to sell alcohol only to the responsible manager of an organization.

The above organization represents and warrants that the following individual is the organization's responsible manager:

Name: Jessica Coughlin Address: 890 Commonwealth Ave  
 Title: Marketing Specialist Date of Birth: 11/23/84  
 Telephone number(s) (24-hour contact information): 312 835 8931  
 Email address(es): JCOUGHLIN@BU.EDU

Complete name and address of officer of the organization applying:

Name: Larry Mahony Title: \_\_\_\_\_ Address: \_\_\_\_\_  
 Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_  
 Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_

1) How many cases or barrels, etc. of malt or wine beverages are to be available for sale?

4 cases of beer

2) What is the maximum number of people to attend? 85

3) What is the age group of people to attend? 25 - 65

4) Are you charging an admission fee? No

5) How will alcoholic beverages be dispensed or served and by whom? Please state the names, addresses and telephone numbers of all person(s) serving alcoholic beverages.

Served by Jessara Coughlin

6) State whether or not the person(s) dispensing or serving alcohol received TIPS certification or equivalent safe-service-of-alcohol training, and the date(s) of any such certification or training. (PLEASE ATTACH DOCUMENTATION PERTAINING TO SUCH CERTIFICATION OR TRAINING.): Yes

7) If any attending are under age 21, what method will be used to check I.D. and what procedures will be followed to make certain that those under age 21 are not served and are not allowed to consume alcoholic beverages? No people under 21.

8) Will a police detail or other types of security be provided? No

If "Yes" what type and how many? \_\_\_\_\_

Note: Police details are arranged for by contacting the Brookline Police Department.

9) If different from the responsible manager identified above, please state the name, address, age, and 24-hour contact information of the official, employee, or representative of the organization who will be physically present at the event and who has been duly authorized by the organization to be responsible for supervising the event to ensure compliance with all applicable federal, state, and local laws, regulations, ordinances and conditions on the license and maintenance of order and decorum:

(Name)

(Address)

(Date of Birth)

Telephone number(s) (24-hour contact information): \_\_\_\_\_

Email address(es): \_\_\_\_\_

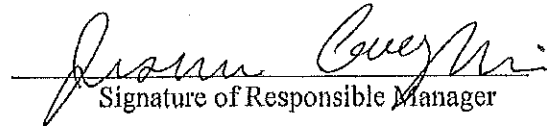
10) Does the organization have a pending application for a liquor license as a common victualler, innholder or club? Is the premises for which a temporary license is sought already the subject of a liquor license? \_\_\_\_\_ Yes ☒ No

If the answer is yes to either question, please detail: \_\_\_\_\_

11) Please describe the portion(s) of the premises where the sale, storage and/or furnishing of alcohol will take place, including a specification and description of all indoor and outdoor portions of the premises (e.g., in the case of a function, table areas, bars, dance floors, tented area, etc.): Large table in event room.

**Town Property Use:** In the event that the applicant seeks to use a Town property in connection with the event that is the subject of this application, this application must be accompanied by proof that the applicant has secured, and that there is in effect during the period of time for which the license is sought, a general liability policy naming the Town as an additional insured, or, if the general liability policy exempts alcohol-related incidents or occurrences, a liquor liability policy naming the Town as an additional insured. By signing this application, the organization and its officers, employees, agents and representatives absolve the Town and its officials, officers, employees, agents and representatives from all liability in connection with the applicant's proposed use. By signing this application, the organization agrees to indemnify the Town for any damage to the Town's personal and real property resulting from the use, and agrees to indemnify the Town for any expenses the Town incurs in restoring the property to its condition prior to the use (in excess of any routine cleaning and maintenance service the Town would ordinarily have performed irrespective of the use).

**Certification:** I certify that I, as the responsible manager of the organization, have been duly authorized to apply for this license on behalf of the organization, and that I will be responsible for the organization's compliance with all applicable federal, state, and local laws, regulations, ordinances and conditions on the license and for the maintenance of order and decorum at the event.

  
Signature of Responsible Manager

Do not click Back-Space to leave this window

# Certificate of Completion

This Certificate of Completion of  
eTIPS On Premise 2.0  
For coursework completed on January 22, 2014  
provided by Health Communications, Inc.

is hereby granted to:

Jessica Coughlin

Certification to be sent to:

WBUR

890 Commonwealth Ave  
Boston MA, 02215-1205 USA

HeH

HEALTH COMMUNICATIONS INC.

This document is not proof of TIPS certification. It signifies only that you have completed the course. Valid certification documents will be forwarded to you.





**BROOKLINE POLICE DEPARTMENT**

*Brookline, Massachusetts*

DANIEL C. O'LEARY  
CHIEF OF POLICE

To: Chief Daniel O'Leary

From: Lieutenant Derek Hayes

Re: Boston University One Day Wine & Malt Beverages License: 05-01-14

Date: April 4<sup>th</sup>, 2014

---

Sir,

Larry Mahoney (Representative of Trustees) on behalf of Boston University has applied for a Temporary One Day Wine and Malt license for a WBUR ON TAP Event hosted by the Boston University's public radio station, WBUR. This event is scheduled to take place on May 1<sup>st</sup>, 2014 between 5:30pm and 7pm. The event will be held at 890 Commonwealth Ave which is a building owned and operated by Boston University.

This event is expecting no more than eighty five attendees varying in age. The alcoholic beverages at this event will be served by Jessica Coughlin who is certified in the safe service of alcohol. A copy of her TiPS certification was submitted. She will also be checking attendees' identification. Available to the attendees will be four cases beer.

The responsible manager who will be on site during this event is Marketing Specialist, Jessica Coughlin.

This event has adequate parking and is accessible to public transportation.

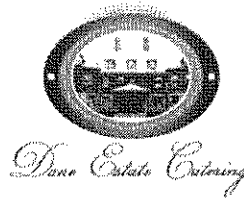
I see no reason to deny this Temporary License.

Respectfully Submitted,

Lieutenant Derek Hayes







**TOWN OF BROOKLINE  
APPLICATION FOR A TEMPORARY ALL KINDS ALCOHOLIC  
BEVERAGES SALES LICENSE**

Date: 3/27/2014

I hereby make application for a TEMPORARY ALCOHOLIC BEVERAGE LICENSE for the purpose of selling and dispensing ALL KINDS alcoholic beverages permitted by law at a  
B'nai Mitzvah

(state whether meeting, banquet, concert, picnic, wedding, etc.)

Which is to be held by PINE MANOR COLLEGE  
(Name of Non-Profit Organization)

400 HEATH STREET, CHESTNUT HILL, MA 02467  
(Address of Non-Profit Organization)

a NON-PROFIT organization, on the 24th day of May

between the hours of 6:30PM – 10:30PM at the following described place:

FERRY FOYER and FOUNDER's HALL

[NOTE: Under state law, temporary licensees may not sell alcoholic beverages between the hours of 2 a.m. and 8 a.m.]

State law permits issuance of a temporary license to sell alcohol only to the responsible manager of an organization.

The above organization represents and warrants that the following individual is the organization's responsible manager:

Name: Lovelynn Jensen Address: 400 Heath St. Chestnut Hill, MA 02467  
Title: Dir. of Special Events Date of Birth: 2/1/71  
Telephone number(s): (24-hour contact information): 813-298-7777  
Email address(es): LJensen@PMC.EDU

Complete name and address of the officers of the organization applying:

Name: <u>Joe Lee</u>	Title: <u>President</u>	Address: <u>400 Heath St., Chestnut Hill, MA 02467</u>
Name: <u>Neil Buckley</u>	Title: <u>VP Finance &amp; Admin</u>	Address: <u>400 Heath St., Chestnut Hill, MA 02467</u>
Name: _____	Title: _____	Address: _____



*Dance Estate Catering*

1) How many cases or barrels, etc of alcoholic beverages are to be available for sale?

Please specify by type of alcohol. FULL OPEN BAR

10 CASES OF BEER, 32 BOTTLES OF WINE, 1 BOTTLES EACH OF ASSORTED LIQUORS (10 total)

2) What is the maximum number of people to attend? 150

3) What is the age group of people to attend? 13-92

4) Are you charging an admission fee? no

5) How will alcoholic beverages be dispensed or served and by whom? Please state the names, addresses and telephone numbers of all person(s) serving alcoholic beverages.

TIPS Certifies Servers

6) State whether or not the person(s) dispensing or serving alcohol received TIPS certification or equivalent safe-service-of-alcohol training, and the date(s) of any such certification or training. (PLEASE ATTACH DOCUMENTATION PERTAINING TO SUCH CERTIFICATION OR TRAINING.)

See Attached

7) If any attending are under age 21, what method will be used to check I.D. and what procedures will be followed to make certain that those under age 21 are not served and are not allowed to consume alcoholic beverages Checking ID on site

8) Will a police detail or other types of security be provided? N/A

If "yes" what type and how many? N/A

Note: Police details are arranged for by contacting the Brookline Police Department.

9) If different from the responsible manager identified above, please state the name, address, age and 24-hour contact information of the official employee or representative of the organization who will be physically present at the event and who had been duly authorized by the organization to be responsible for supervising the event to ensure compliance with all applical federal, state and local laws, regulations, ordinances and conditions on the license and the mainteance of order and decorum:

(Name)

(Address)

(Date of Birth)

Telephobe number(s) (24-hour contact information):

Email address(es):





*Dana Estate Catering*

- 10) Does the organization have a pending application for a liquor license as a common victualler, innholder or club? Is the premises for which a temporary license is sought already the subject of a liquor license? \_\_\_\_\_ Yes \_\_\_\_\_ X \_\_\_\_\_ No
- 11) Please describe the portion(s) of the premises where the sale, storage and/or furnishing of alcohol will take place, including a specification and description of all indoor and outdoor portions of the premises (e.g., in the case of a function, table areas, bars, dance floors, netted area, etc.):

FOUNDERS HALL, FERRY FOYER & MONCRIEF ROOM – 1 BAR SET UP

**Town Property Use:** In the event that the applicant seeks to use a Town property in connection with the event that is the subject of this application, this application must be accompanied by proof that the applicant has secured and that there is in effect during the period of time for which the license is sought, a general liability policy naming the Town as an additional insured, or if the general liability policy exempts alcohol-related incidents or occurrences, a liquor liability policy naming the Town as an additional insured. By signing this application, the organization and its officers, employees, agents and representatives absolve the Town and its officials, officers, employees, agents and representatives from all liability in connection with the applicant's proposed use. By signing this application, the organization agrees to indemnify the Town for any damage to the Town's personal and real property resulting from the use, and agrees to indemnify the Town for any expenses that Town incurs in restoring the property to its condition prior to the use (in excess of any routine cleaning and maintenance service the Town would ordinarily have performed irrespective of the use.)

Cerification: I certify that I, as the responsible manager of the organization, have been duly authorized to apply for this license of behalf of the organization and that I will be responsible for the organization's compliance with all the applicable federal, state and local laws, regulation, ordinances and conditions on the license and for the mainenance of order and decorum at the event.

*Lovelynn Jensen*

Signature of Responsible Manager



*Dana Estate Catering*



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422650 D.O.B.: XX/XX/XXXX

RYAN P MCELHINNEY  
 13 W End Ave  
 Middleboro, MA 02346-1920

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Michael Marcantonio, 64



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422645 D.O.B.: XX/XX/XXXX

CHRISTINE L STEARNS  
 13 W End Ave  
 Middleboro, MA 02346-1920

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Michael Marcantonio, 64



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422649 D.O.B.: XX/XX/XXXX

LAUREN R MURRAY  
 13 W End Ave  
 Middleboro, MA 02346-1920

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Michael Marcantonio, 64



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422651 D.O.B.: XX/XX/XXXX

JUSTIN Z PIKE  
 13 W End Ave  
 Middleboro, MA 02346-1920

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Michael Marcantonio, 64



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422652 D.O.B.: XX/XX/XXXX

JARED M SANTOS  
 13 W End Ave  
 Middleboro, MA 02346-1920

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Michael Marcantonio, 64



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422653 D.O.B.: XX/XX/XXXX

RONALD M KOLOZIE  
 13 W End Ave  
 Middleboro, MA 02346-1920

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Michael Marcantonio, 64



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422648 D.O.B.: XX/XX/XXXX

STACY J LEARY  
 182 Thompson St  
 Middleboro, MA 02346-1608

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Michael Marcantonio, 64



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422646 D.O.B.: XX/XX/XXXX

SHON M HURLEY  
 13 W End Ave  
 Middleboro, MA 02346-1920

For service visit us online at [www.gettips.com](http://www.gettips.com)  
 Michael Marcantonio, 64



## BROOKLINE POLICE DEPARTMENT

*Brookline, Massachusetts*

DANIEL C. O'LEARY  
CHIEF OF POLICE

To: Chief Daniel O'Leary

From: Lieutenant Derek Hayes

Re: Pine Manor College – Temp All Kinds of Alcoholic Beverages License: 05-24-14

Date: April 4th, 2014

---

Sir,

On behalf of Pine Manor College, Lovelynn Jenson, Director of Special Events, has applied for a Temporary Section 14 All Kinds of Alcoholic Beverages License for a B'nai Mitzvah scheduled for May 24<sup>th</sup> 2014 between 6:30pm and 10:30pm. The event will be held in the Ferry Foyer and Fonders Hall located on campus at 400 Heath St. and will have one bar set-up.

Lovelynn Jenson (DOB 02-01-1971 Phone # 813-298-7777) will be the responsible manager on site for this event and will ensure compliance with all applicable Federal, State and local laws, regulations, ordinances, and any conditions on the permit.

This event is expecting no more than one hundred fifty (150) attendees ages 13-92. This event will have available to attendees over the age of 21 years, all kinds of alcoholic beverages to be served by TiPS certified staff. Copies of their TiPS certifications were provided. Available for sale will be ten cases of beer, 32 bottles of wine and assorted liquors.

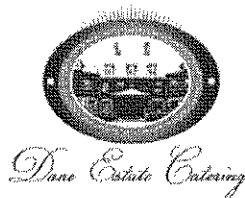
The Pine Manor College campus provides sufficient off street parking for this event.

I see no reason to deny this application.

Respectfully Submitted,

Lieutenant Derek Hayes





**TOWN OF BROOKLINE  
APPLICATION FOR A TEMPORARY ALL KINDS ALCOHOLIC  
BEVERAGES SALES LICENSE**

Date: 3/27/14

I hereby make application for a TEMPORARY ALCOHOLIC BEVERAGE LICENSE for the purpose of selling and dispensing ALL KINDS alcoholic beverages permitted by law at a

WEDDING

(state whether meeting, banquet, concert, picnic, wedding, etc.)

Which is to be held by PINE MANOR COLLEGE  
(Name of Non-Profit Organization)

400 HEATH STREET, CHESTNUT HILL, MA 02467  
(Address of Non-Profit Organization)

a NON-PROFIT organization, on the 1<sup>ST</sup> day of JUNE

between the hours of 3:45 PM – 7:30 PM at the following described place:

Ferry Foyer and Moncrief Room

[NOTE: Under state law, temporary licensees may not sell alcoholic beverages between the hours of 2 a.m. and 8 a.m.]

State law permits issuance of a temporary license to sell alcohol only to the responsible manager of an organization.

The above organization represents and warrants that the following individual is the organization's responsible manager:

Name: Lovelynn Jensen Address: 400 Heath St. Chestnut Hill, MA 02467  
Title: Dir. of Special Events Date of Birth: 2/1/71  
Telephone number(s): (24-hour contact information): 813-298-7777  
Email address(es): LJensen@PMC.EDU

Complete name and address of the officers of the organization applying:

Name: Joe Lee Title: President Address: 400 Heath St., Chestnut Hill, MA 02467  
Name: Neil Buckley Title: VP Finance & Admin Address: 400 Heath St., Chestnut Hill, MA 02467  
Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_



*Dance Estate Catering*

- 1) How many cases or barrels, etc of alcoholic beverages are to be available for sale?  
Please specify by type of alcohol. ALL KINDS/FULL OPEN  
1 CASE OF BEER, 12 BOTTLES OF WINE, 15 BOTTLES OF ASSORTED LIQUORS.
- 2) What is the maximum number of people to attend? 20
- 3) What is the age group of people to attend? 21-80
- 4) Are you charging an admission fee? no
- 5) How will alcoholic beverages be dispensed or served and by whom? Please state the names, addresses and telephone numbers of all person(s) serving alcoholic beverages.

TIPS Certifies Servers

- 6) State whether or not the person(s) dispensing or serving alcohol received TIPS certification or equivalent safe-service-of-alcohol training, and the date(s) of any such certification or training. (PLEASE ATTACH DOCUMENTATION PERTAINING TO SUCH CERTIFICATION OR TRAINING.)

See Attached

- 7) If any attending are under age 21, what method will be used to check I.D. and what procedures will be followed to make certain that those under age 21 are not served and are not allowed to consume alcoholic beverages? Checking ID on site
- 8) Will a police detail or other types of security be provided? N/A

If "yes" what type and how many? N/A

Note: Police details are arranged for by contacting the Brookline Police Department.

- 9) If different from the responsible manager identified above, please state the name, address, age and 24-hour contact information of the official employee or representative of the organization who will be physically present at the event and who had been duly authorized by the organization to be responsible for supervising the event to ensure compliance with all applical federal, state and local laws, regulations, ordinances and conditions on the license and the mainteance of order and decorum:

(Name)

(Address)

(Date of Birth)

Telephobe number(s) (24-hour contact information): \_\_\_\_\_

Email address(es): \_\_\_\_\_



*Dane Estate Catering*

- 10) Does the organization have a pending application for a liquor license as a common victualler, innholder or club? Is the premises for which a temporary license is sought already the subject of a liquor license? \_\_\_\_\_ Yes \_\_\_\_\_ ☒ No
- 11) Please describe the portion(s) of the premises where the sale, storage and/or furnishing of alcohol will take place, including a specification and description of all indoor and outdoor portions of the premises (e.g., in the case of a function, table areas, bars, dance floors, netted area, etc.):

FOUNDERS HALL & FERRY FOYER – 1 BAR SET UP

**Town Property Use:** In the event that the applicant seeks to use a Town property in connection with the event that is the subject of this application, this application must be accompanied by proof that the applicant has secured and that there is in effect during the period of time for which the license is sought, a general liability policy naming the Town as an additional insured, or if the general liability policy exempts alcohol-related incidents or occurrences, a liquor liability policy naming the Town as an additional insured. By signing this application, the organization and its officers, employees, agents and representatives absolve the Town and its officials, officers, employees, agents and representatives from all liability in connection with the applicant's proposed use. By signing this application, the organization agrees to indemnify the Town for any damage to the Town's personal and real property resulting from the use, and agrees to indemnify the Town for any expenses that Town incurs in restoring the property to its condition prior to the use (in excess of any routine cleaning and maintenance service the Town would ordinarily have performed irrespective of the use.)

Cerification: I certify that I, as the responsible manager of the organization, have been duly authorized to apply for this license of behalf of the organization and that I will be responsible for the organization's compliance with all the applicable federal, state and local laws, regulation, ordinances and conditions on the license and for the mainenance of order and decorum at the event.

*Louelynn Jensen*

Signature of Responsible Manager



*Dane Estate Catering*



On Premise SSN: XXX-XX-XXXX  
 Issued: 3/12/2013 Expires: 3/2/2016  
 ID#: 3422650 D.O.B.: XX/XX/XXXX

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 ID#: 3422648 D.O.B.: XX/XX/XXXX

STACY J LEARY  
 182 Thompson St  
 Middleboro, MA 02346-1608

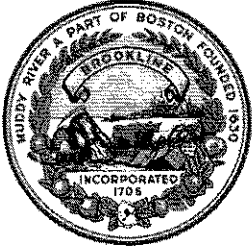
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 13 W End Ave  
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**BROOKLINE POLICE DEPARTMENT**

*Brookline, Massachusetts*

DANIEL C. O'LEARY  
CHIEF OF POLICE

To: Chief Daniel O'Leary

From: Lieutenant Derek Hayes

Re: Pine Manor College – Temp All Kinds of Alcoholic Beverages License: 06-01-14

Date: April 4th, 2014

Sir,

On behalf of Pine Manor College, Lovelynn Jenson, Director of Special Events, has applied for a Temporary Section 14 All Kinds of Alcoholic Beverages License for a Wedding scheduled for June 1<sup>st</sup>, 2014 between 3:45pm and 7:30pm. The event will be held in the Ferry Foyer and Mongrief Room located on campus at 400 Heath St. and will have one bar set-up.

Lovelynn Jenson (DOB 02-01-1971 Phone # 813-298-7777) will be the responsible manager on site for this event and will ensure compliance with all applicable Federal, State and local laws, regulations, ordinances, and any conditions on the permit.

This event is expecting no more than twenty (20) attendees ages 21-80. This event will have available to attendees over the age of 21 years, all kinds of alcoholic beverages to be served by TiPS certified staff. Copies of their TiPS certifications were provided. Available for sale will be one case of beer, 12 bottles of wine and assorted liquors.

The Pine Manor College campus provides sufficient off street parking for this event.

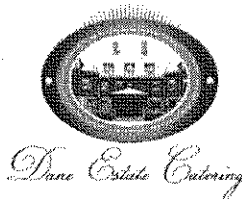
I see no reason to deny this application.

Respectfully Submitted,

Lieutenant Derek Hayes







**TOWN OF BROOKLINE  
APPLICATION FOR A TEMPORARY WINE AND MALT ALCOHOLIC  
BEVERAGES SALES LICENSE**

Date: 3/27/2014

I hereby make application for a TEMPORARY ALCOHOLIC BEVERAGE LICENSE for the purpose of selling and dispensing WINE AND BEER alcoholic beverages permitted by law at a  
**BAR MITZVAH**

(state whether meeting, banquet, concert, picnic, wedding, etc.)

Which is to be held by PINE MANOR COLLEGE  
(Name of Non-Profit Organization)

400 HEATH STREET, CHESTNUT HILL, MA 02467  
(Address of Non-Profit Organization)

a NON-PROFIT organization, on the 7<sup>TH</sup> day of JUNE

between the hours of 1:00 PM – 4:00 PM at the following described place:

FERRY FOYER and Founder's Hall

[NOTE: Under state law, temporary licensees may not sell alcoholic beverages between the hours of 2 a.m. and 8 a.m.]

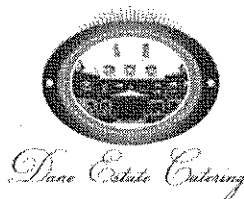
State law permits issuance of a temporary license to sell alcohol only to the responsible manager of an organization.

The above organization represents and warrants that the following individual is the organization's responsible manager:

Name: Lovelynn Jensen Address: 400 Heath St. Chestnut Hill, MA 02467  
Title: Dir. of Special Events Date of Birth: 2/1/71  
Telephone number(s): (24-hour contact information): 813-298-7777  
Email address(es): LJensen@PMC.EDU

Complete name and address of the officers of the organization applying:

Name: Joe Lee Title: President Address: 400 Heath St., Chestnut Hill, MA 02467  
Name: Neil Buckley Title: VP Finance & Admin Address: 400 Heath St., Chestnut Hill, MA 02467  
Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_



- 1) How many cases or barrels, etc of alcoholic beverages are to be available for sale?  
Please specify by type of alcohol. BEER AND WINE

8 CASES OF BEER, 36 BOTTLES OF WINE

- 2) What is the maximum number of people to attend? 140

- 3) What is the age group of people to attend? 13-90

- 4) Are you charging an admission fee? no

- 5) How will alcoholic beverages be dispensed or served and by whom? Please state the names, addresses and telephone numbers of all person(s) serving alcoholic beverages.

TIPS Certified Servers

- 6) State whether or not the person(s) dispensing or serving alcohol received TIPS certification or equivalent safe-service-of-alcohol training, and the date(s) of any such certification or training. (PLEASE ATTACH DOCUMENTATION PERTAINING TO SUCH CERTIFICATION OR TRAINING.)

See Attached

- 7) If any attending are under age 21, what method will be used to check I.D. and what procedures will be followed to make certain that those under age 21 are not served and are not allowed to consume alcoholic beverages? Checking ID on site

- 8) Will a police detail or other types of security be provided? N/A

If "yes" what type and how many? N/A

Note: Police details are arranged for by contacting the Brookline Police Department.

- 9) If different from the responsible manager identified above, please state the name, address, age and 24-hour contact information of the official employee or representative of the organization who will be physically present at the event and who had been duly authorized by the organization to be responsible for supervising the event to ensure compliance with all applical federal, state and local laws, regulations, ordinances and conditions on the license and the mainteance of order and decorum:

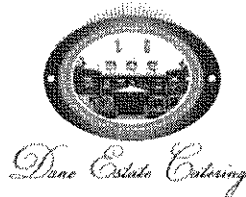
(Name)

(Address)

(Date of Birth)

Telephobe number(s) (24-hour contact information): \_\_\_\_\_

Email address(es): \_\_\_\_\_



- 10) Does the organization have a pending application for a liquor license as a common victualler, innholder or club? Is the premises for which a temporary license is sought already the subject of a liquor license? \_\_\_\_\_ Yes \_\_\_\_\_ X \_\_\_\_\_ No
- 11) Please describe the portion(s) of the premises where the sale, storage and/or furnishing of alcohol will take place, including a specification and description of all indoor and outdoor portions of the premises (e.g., in the case of a function, table areas, bars, dance floors, tented area, etc.):

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FERRY FOYER - 1 BAR SET UP

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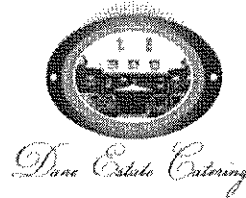
**Town Property Use:** In the event that the applicant seeks to use a Town property in connection with the event that is the subject of this application, this application must be accompanied by proof that the applicant has secured and that there is in effect during the period of time for which the license is sought, a general liability policy naming the Town as an additional insured, or if the general liability policy exempts alcohol-related incidents or occurrences, a liquor liability policy naming the Town as an additional insured. By signing this application, the organization and its officers, employees, agents and representatives absolve the Town and its officials, officers, employees, agents and representatives from all liability in connection with the applicant's proposed use. By signing this application, the organization agrees to indemnify the Town for any damage to the Town's personal and real property resulting from the use, and agrees to indemnify the Town for any expenses that Town incurs in restoring the property to its condition prior to the use (in excess of any routine cleaning and maintenance service the Town would ordinarily have performed irrespective of the use.)

Cerification: I certify that I, as the responsible manager of the organization, have been duly authorized to apply for this license of behalf of the organization and that I will be responsible for the organization's compliance with all the applicable federal, state and local laws, regulation, ordinances and conditions on the license and for the mainenance of order and decorum at the event.

*Louelynn Jensen*

---

Signature of Responsible Manager



**TIPS** On Premise SSN: XXX-XX-XXXX  
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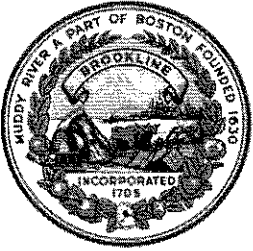
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**BROOKLINE POLICE DEPARTMENT**  
*Brookline, Massachusetts*

DANIEL C. O'LEARY  
CHIEF OF POLICE

To: Chief Daniel O'Leary

From: Lieutenant Derek Hayes

Re: Pine Manor College – Temp Wine & Malt License: 06-07-14

Date: April 4th, 2014

---

Sir,

On behalf of Pine Manor College, Lovelynn Jenson, Director of Special Events, has applied for a Temporary Section 14 Wine and Malt Beverages License for a Bar Mitzvah scheduled for June 7<sup>th</sup>, 2014 between 1pm and 4pm. The event will be held in the Ferry Foyer and Founder's Hall located on campus at 400 Heath St. and will have one bar set-up.

Lovelynn Jenson (DOB 02-01-1971 Phone # 813-298-7777) will be the responsible manager on site for this event and will ensure compliance with all applicable Federal, State and local laws, regulations, ordinances, and any conditions on the permit.

This event is expecting no more than one hundred forty (140) attendees ages 13-90. This event will have available to attendees over the age of 21 years, wine and malt beverages to be served by TIPS certified staff. Copies of their TIPS certifications were provided. Available for sale will be eight case of beer and 36 bottles of wine.

The Pine Manor College campus provides sufficient off street parking for this event.

I see no reason to deny this application.

Respectfully Submitted,

Lieutenant Derek Hayes







OFFICE OF THE TOWN ADMINISTRATOR  
MEMORANDUM

TO: Each Member of the Board

FROM: Melvin A. Kleckner, Town Administrator

RE: TOWN COUNSEL APPOINTMENT

DATE: April 14, 2014

I am pleased to recommend for your consideration the appointment of Joslin Ham Murphy as Town Counsel effective Friday, April 18, 2014. As you know, Ms. Ham Murphy has served as an Associate Town Counsel in the Town of Brookline's Legal Department since 1993, and has been the Acting Town Counsel since July of 2013. Ms. Ham Murphy is a career professional in the field of municipal and public school law. Prior to her legal career, she was a Brookline Police Officer. Following law school, Ms. Murphy worked as an Assistant District Attorney in Middlesex County, prosecuting criminal matters and serving on a special investigative unit for organized criminal activity. After her service for the District Attorney, Ms. Ham Murphy worked as an Assistant Attorney General, prosecuting complicated organized and white collar crime. It was from this special work that Ms. Ham Murphy assisted the City of Chelsea while it was in state receivership, first as the Legal Advisor to the Police Chief, and then as the Interim Police Chief. During Ms. Ham Murphy's tenure as an Associate Town Counsel, she has been involved in the full range of legal matters affecting the Town, becoming an expert in the specific practice of public education law. She grew up in Brookline, graduating from the public schools, and is a current resident of the town.

This recommendation is made pursuant to the Town Administrator Act, 1985 Mass. Acts ch. 270 as amended. Pursuant to the Act, the Town Administrator is responsible for the "recruitment and recommendations for appointment by the Board of Selectmen of all department heads..., and in making such recommendations the Administrator may in his discretion recommend for appointment as department head single candidates whom the Board of Selectmen shall either appoint or reject until one is appointed." Consistent with the Town's long standing practice, I convened a search panel to assist me in the review of candidates for the position. The panel consisted of Selectman Chair Betsy DeWitt, Attorney Bernard Greene, Attorney Sandy Gadsby, Attorney Janet Fierman, Alan Morse, Attorney Steven Wright, Angela Allen, and Sandra DeBow. This group engaged in an extensive and thorough process that established an Ideal Candidate Profile, a Position Announcement, as well as the

job advertisement and developed a broad recruitment list for placement of the ad. The Committee also identified candidates to interview and conducted the screening interviews (including a writing exercise), moving up to three candidates for my consideration. I wish to formally and sincerely thank the individuals serving on the search panel.

The Town received forty-one applications for the position. Of this group, six were interviewed. Sandra DeBow and I met with two final candidates who were the strongest candidates. Ms. Ham Murphy was one of these finalists. Ms. DeBow and I met with the finalists, reviewing in detail their experience and understanding of the duties and expectations for the position. These meetings were less formal, interactive, and quite productive. We followed up by checking formal references and tapping into our informal network. Following this comprehensive process, it is my pleasure to recommend Joslin Ham Murphy for appointment. This selection is based on a number of factors including, but not limited to, the following;

- Her extensive municipal and public education experience, exceeding all other candidates' experience
- Her deep understanding and exposure to the Town of Brookline
- Her outstanding leadership qualities and creativity in addressing complex legal issues
- Her superior interpersonal skills and ability to communicate effectively with a board array of audiences
- Her energetic and collaborative management style, including a desire to embrace new administrative methods and technologies

I was able to carefully observe and assess Ms. Ham Murphy's performance over the last several months in her capacity as Acting Town Counsel. Incumbency can cut both ways during a promotional process. In this case, Ms. Ham Murphy's performance as Acting Town Counsel was outstanding and served her well during the process, providing her an ability to quickly take the lead on a variety of difficult matters.

Of consideration during this process, we closely reviewed the fact that Ms. Ham Murphy is married to Sergeant Robert Murphy of the Brookline Police Department. Sergeant Murphy has three siblings who also work for the Town of Brookline (two in the Police Department and another in the Department of Public Works). The state's Conflict of Interest Law (MGL Chapter 268A) regulates the conduct of municipal employees. In particular, Section 19 of the law prohibits a municipal employee from participating in a particular matter in which to her knowledge her immediate family (including her spouse and her spouse's siblings) has a financial interest. Section 23(b) of the law is a broader provision that requires disclosure when an employee acts in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. Out of an abundance of caution and transparency, I engaged the services of an independent attorney to evaluate the potential conflict of interest issues that may arise from the appointment of Joslin Ham Murphy as Town Counsel. Thomas Kiley, a former Assistant Attorney General and prominent lawyer, was selected for this assignment. Attorney Kiley's review and opinion is attached. He has concluded that there are no fundamental conflict of interest issues which would preclude her service as Town Counsel. In fact, Ms. Ham Murphy has been subject to the same conflict of interest law/issues during her long tenure as Associate Town Counsel. However, she will have greater "official responsibility" as Town Counsel than as an Associate. With greater official responsibility, Ms. Ham



Murphy may also encounter a broader array of "particular matter(s)" in connection with her role as Town Counsel, and will likely be called upon to "participate" in more matters in varied contexts where a conflict of interest might arise. I have thoroughly reviewed Attorney Kiley's letter/ opinion and my expectations with Ms. Ham Murphy. She has already filed a Section 23(b) disclosure and I am confident that she will continue to fully comply with the restrictions and obligations imposed by Section 19 and other relevant sections of the law.

Finally, I also wish to address our efforts in addressing diversity in this process. I appointed a screening panel that included highly qualified individuals in the Town of Brookline, including three minority persons among the eight members. Not only did we seek a highly qualified screening panel, we actively recruited women and minority members to reflect the community we serve. I can tell you that the members were engaged and provided valuable insight and advice about ways to pursue a diverse candidate pool in this and other municipal departments. In an effort to maximize a diverse pool of applicants, we proactively advertised the position using the template established by the Human Relations/ Human Services Division and the Human Resources Department. In my opinion, the unique requirements of a lead attorney with significant experience to manage a municipal legal department responsible for both municipal and school matters, limited the pool of applicants.

As we now begin to recruit for a replacement for Ms. Ham Murphy's position, we expect to tap into an even larger pool of candidates as more general experience will be sufficient for the vacant position. This larger pool of candidates will result in an even more diverse candidate pool. The Human Resources Director, Ms. Ham Murphy and I are committed to generating a diverse pool of qualified applications for this position.

I look forward to discussing my recommendation with you on Thursday evening.

cc: Sandra DeBow, Human Resources Director  
Members of the Town Administrator's Screening Panel

COSGROVE, EISENBERG AND KILEY, P.C.  
COUNSELORS AT LAW

MARTIN S. COSGROVE  
LEWIS C. EISENBERG  
THOMAS R. KILEY  
PETER M. McELROY  
CARL VALVO

WILLIAM J. CINTOLO  
THOMAS B. DROHAN  
JOHN R. HITT  
SUZANNE B. MATTHEWS

April 10, 2014

Melvin A. Kleckner  
Town Administrator  
Town of Brookline  
Town Hall  
333 Washington Street  
Brookline, MA 02445

Dear Town Administrator Kleckner:

You have engaged me to advise you as to the conflict of interest issues which may arise from Joslin Ham Murphy's potential service as Brookline Town Counsel and whether any such issues would preclude her appointment. This issue was raised mostly due to the fact that Ms. Murphy has immediate family members employed in the Town of Brookline. As part of this engagement, I have reviewed: job descriptions for Ms. Murphy's anticipated position and for those of her immediate family members employed by Brookline; the 2013 Annual Report of the Legal Department and its 2014 program budget; and each of the policies, by-laws and statutes referenced in this opinion. Most importantly, I have interviewed Ms. Murphy and thoroughly explored with her her outside activities and I have discussed my observations and conclusions with senior staff at the State Ethics Commission. As discussed below, there are no new or expanded Conflict of Interest Law provisions that will be applicable to Attorney Murphy that have not been applicable throughout her 20 years of service in the office of Town Counsel. She is conversant with that law (General Law Chapter 268A) and sensitive to the way it will apply to her expanded duties and responsibilities as permanent Town Counsel. Accordingly, there are no fundamental conflict of interest issues which would preclude her service if duly appointed.

803 HANCOCK STREET, P.O. BOX 189, QUINCY, MA 02170-0997 (617) 479-7770, TELECOPIER: (617) 773-6901

ONE INTERNATIONAL PLACE, SUITE 1820, BOSTON, MA 02110-2600 (617) 439-7775, TELECOPIER: (617) 330-8774

As Town Counsel, Ms. Murphy will be a "municipal employee." Neither the position she currently holds nor the Town Counsel position has been designated as "special", which would create certain exemptions under the law. In addition, as Town Counsel, Ms. Murphy would have greater "official responsibility" than as an Assistant, a term defined by G.L. c. 268A, §1 (i):

as the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and whether personal or through subordinates, to approve, disapprove or otherwise direct agency action.

With greater official responsibility, Ms. Murphy would also encounter a broader array of "particular matter(s),"<sup>1</sup> than in her prior position and hence might be called on to "participate"<sup>2</sup> in more matters in varied contexts where a conflict of interest might arise. The fact of the matter is that Ms. Murphy has been Acting Town Counsel for the past nine months, however, and so the breadth of her official responsibility is already known to her.

The substantive restrictions imposed by the conflict law on municipal employees are set forth in G.L. c. 268A, §§2, 3, 17-20 and 23. I will not tarry over the bribery and gratuity provisions of G.L. c. 268A, §§2 and 3 which apply to every public employee of the Commonwealth. Nor is it necessary to consider at the beginning of Ms. Murphy's service as Town Counsel what she may do when she leaves the position, a situation which lies in the future and is governed by §18. Instead, I focus on the provisions of that chapter which have historically been problematic for municipal attorneys. Prominent among those provisions is G.L. c. 268A,

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<sup>1</sup> A "particular matter" is defined by G.L. c. 268A, §1(k) as any "judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property."

<sup>2</sup> G.L. c. 268A, §1(j) circularly defines "participate" to mean "participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise."

§17. It prohibits a Brookline employee from receiving compensation from anyone other than Brookline in connection with any particular matter in which Brookline is a party or has a direct and substantial interest (§17(a)), and from acting as agent or attorney for anyone other than Brookline or a Brookline agency in pursuing a claim against Brookline. (§17(c)). Section 17(c) prohibits a municipal employee from representing both a municipality and a private party in the same lawsuit, as first the Ethics Commission (in its opinion numbered EC-COI-82-46) and then the Supreme Judicial Court (in Town of Edgartown v. State Ethics Commission, 391 Mass. 82 (1984)) have expressly held.

Although §17 has given rise to significant enforcement activity against municipal lawyers over the course of time,<sup>3</sup> it is not a significant matter to Attorney Murphy because she does not engage in private practice and has not at any time while working for Brookline. Thus, she is not likely to be representing third parties. Moreover, for the purposes of §17, the Ethics Commission recognizes that it is appropriate for a municipal attorney to defend a municipal employee as well as the municipality in a lawsuit based upon the employee's official acts. Advisory 84-03: Municipal Lawyers Representing Both a Municipality and a Municipal Employee in Same Lawsuit. Notably, that advisory also confirms that dual representation is appropriate when the municipal employee is sued in both his individual and official capacity, as in a civil rights action. Regardless, when considering her representation under this section, it must be noted that Ms. Murphy is married to a Brookline police sergeant whose siblings include a brother who is a captain and a sister who is a lieutenant in the Brookline Police Department. Each of those individuals is a member of Ms. Murphy's "immediate family" as defined in G.L. 268A, §1(e) and pursuant to G.L. c. 268A, §19, Ms. Murphy will be precluded from participating in a

<sup>3</sup> See Matter of George Najemy, Ethics Commission Docket No. 264 (1985); and EC-COI-88-1).

particular matter – such as a civil rights lawsuit – in which she or an immediate family member has a financial interest. There is an important caveat to that general proscription; the second paragraph of §19 provides:

It shall not be a violation of this section (1) if the municipal employee first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee, or (2) if, in the case of an elected municipal official making demand bank deposits of municipal funds, said official first files, with the clerk of the city or town, a statement making full disclosure of such financial interest, or (3) if the particular matter involves a determination of general policy and the interest of the municipal employee or members of his immediate family is shared with a substantial segment of the population of the municipality.

Thus, with appropriate written permission,<sup>4</sup> Ms. Murphy could participate in the defense of a civil rights action brought against her husband for actions he took as a police sergeant.<sup>5</sup>

I do not mean to suggest that the only type of matter in which §19 will come into play is a civil rights action against a police officer. Sergeant Murphy and his siblings (including a brother employed by the Brookline Department of Public Works) could have financial interests in promotion matters governed by civil service or disciplinary matters that could result in suspension and loss of pay. Such disciplinary proceedings could result from Brookline policies in

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<sup>4</sup> See, G.L. c. 4, §7, cl. Second A provides that the Board of Selectmen is the appointing authority in town government “unless some other local office is designated as the appointing authority under the provisions of a local charter.” “Charter” in turn includes “special laws enacted by the general court applicable to only one city or town,” G.L. c. 4, §7, cl. Fifth. Such a special law is in effect in Brookline. Mass. St. 1985, c. 270, An Act Establishing the Position of Town Administrator in the Town of Brookline. How the exemption works in the case of a city solicitor or town counsel is laid out in EC-COI-92-33.

<sup>5</sup> Such participation is discretionary, not mandatory; Fillipone v. Mayor of Newton, 392 Mass. 622 (1984) and where there is real adversity between the position of the employee and the Town, Rule 1.7 of the Massachusetts Rules of Professional Conduct applicable to Ms. Murphy as a lawyer might require her recusal.

which Town Counsel has an official role, including without limitation, the Town's Policy Against Discrimination, Sexual Harassment and Retaliation, its Policy Against Fraudulent Conduct, Misappropriation and Corruption, or its Workplace Safety Policy. They could result from an alleged violation of the Town's General By-laws, such as Article 4.3 prohibiting certain finance related conduct. There are also a myriad of situations where Town Counsel plays a role by virtue of state law in financial matters affecting municipal employees (such as retirement related matters under G.L. c. 32, §20(4)(f), negligence claims under G.L. c. 258, and indemnification decisions pursuant to G.L. c. 41, §§100 and 100B) or town residents (such as matters relating to taxes, assessments and abatements under G.L. c. 41, §§26A and 43A, and c. 59 §64). Regardless of the situation in which the financial interest arises, the proscription against participation will apply to Ms. Murphy unless she follows the prescribed exemptive route set forth in §19(b)(1) or it falls within the general policy exemption in §19(b)(3).<sup>6</sup>

Section 19 is not limited to situations where the triggering financial interest is held by the municipal employee or members of her immediate family. It also applies where the interest is that of a business organization in which she is serving as officer, director, trustee, partner or employee. As noted above, Ms. Murphy does not have a private practice. Her "outside" activities are of a civic, rather than a business nature and do not trigger §19. She is a Trustee of Walnut Hills Cemetery, which is an instrumentality of the municipality and serves on the Family Advisory Board of Children's Hospital. Neither presents a §19 problem. The Walnut Hills Cemetery is not a "business organization," see, EC-COI-07-2; and the Family Advisory Board is not the equivalent of a Board of Directors or Trustees.

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<sup>6</sup> The provisions of Section 19(b)(3) are not likely to be applicable in most circumstances as the financial interests in question have to be shared by a substantial segment of the population, which the Commission pegs at ten percent (10%) of the Town's population.

Nor does her trustee position give rise to a violation of G.L. c. 268A, §20, which prohibits a municipal employee from having a financial interest in multiple contracts with the municipality or an agency of the same town. That is because the trustee position is unpaid. There is no prohibition within the statute which forbids a municipal employee from accepting a second, completely uncompensated position. See the recently enacted 930 CMR 6.26. Instead, it prohibits receiving two salaries, or dual compensation in some other form. See McMann v. State Ethics Commission, 23 Mass. App. Ct. 421 (1992).

Finally, G.L. c. 268A, §23(b) is a matter worthy of discussion. Its subparagraph (2)(i) will prohibit Ms. Murphy from using her position to secure unwarranted privileges or exemptions for herself or others. Its subparagraph (3) prohibits acting in a manner which would:

cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

These sections do not override the exemptive provisions discussed above which will enable Ms. Murphy to participate in matters affecting the financial interests of family members; G.L. c. 268A, §23(d), explicitly provides that “any activity specifically exempted from any of the prohibitions in any other section of this chapter shall also be exempt from the provisions of this section,” but there will be situations over the course of time where the appearance of favoritism will compel a disclosure under section 23(b)(3). After all, Ms. Murphy grew up in Brookline and has deep roots and strong contacts in the town. Those facts contribute to her qualifications for the job, but they also will require vigilance in making public disclosures to her appointing

authority or the Commission whenever her community ties can reasonably be seen as influencing her official duties. By way of example, Ms. Murphy's prior service as a Brookline police officer might create an appearance of bias in matters relating to the Department if undisclosed. A sign that she is up to the task is her 23(b)(3) disclosure of March 18, 2014, which is among the materials I have reviewed as a predicate for this opinion.

Your letter of March 25, 2014 invites me to make suggestions for best practices not required by the state conflict of interest law. My only suggestion arises from the interplay of G.L. c. 268A, §23(d) with the substantive provisions in G.L. c. 268A, and the disclosure provisions in G.L. c. 268A, §23(b)(3). The final four paragraphs of §17 contain exemptions that apply to all municipal employees that may not conform to a reasonable person's ethical perspective when applied to a municipality's top legal officer. The first of those paragraphs permits uncompensated action to assist another in disciplinary or personnel administrative matters. The next permits assisting a member of one's immediate family, or one's wards in matters. The third permits paid work assisting another in the performance of a contract to benefit the municipality and the fourth to providing testimony or statements under oath. While two of those paragraphs have disclosure and approval provisions, the others do not. Section 20 contains dozens of exemptions, too numerous for consideration here. I respectfully suggest that in addition to disclosure pursuant to §19(b)(1) where it is apposite, disclosures consistent with §23(b)(3) might be required whenever Town Counsel seeks to avail herself of these exemptions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'TRK' with a stylized flourish at the end.

Thomas R. Kiley

TRK/bap



## Town Counsel - Ideal Candidate Profile

**Brief description:** Complex legal, administrative, managerial and supervisory work in directing all of the Town's legal affairs with a clear understanding of the intersections of local, Massachusetts and federal laws. Plans, manages and supervises all of the Town and School's legal affairs and activities of the Town's law department; coordinate activities with the Board of Selectmen and other Town departments, boards and commissions.

The Ideal candidate would have experience in both municipal and public education law as the Town of Brookline's Legal Department uniquely deals with all Town departments, as well as the public schools. The ideal candidate has sufficient legal experience in a broad array of municipal and public education law which allows him/her to move quickly from one area of law to another while maintaining good judgment and credibility. The ideal candidate has superior communication skills which allow him/her to speak with authority to a wide range of stakeholders, tailoring the position or advice to that stakeholder's specific concerns or needs. The ideal candidate has worked with a broad array of clients and/or groups and is able to anticipate the impact or effects of his/her legal advice on diverse segments of the population, some which may be under-represented or minority citizens. The candidate must also have superior written and oral communication skills that allow him/her to clearly articulate legal arguments to variety of audiences and stakeholders. The Ideal Candidate is comfortable using data and emerging technologies and is able to use them and understand how they interface with municipal government and public education, including the use of smart phones, tablets, social media, reverse 911 and GPS technology. The following further describes these skills or characteristics.

### Experienced Attorney (legal acumen)

- Experience with municipal and public education law - Well established ability to analyze and interpret laws, by-laws, rules, regulations, standards, procedures, and case law and apply them to specific situations and cases on government matters, which may include both the municipal and school matters.
- Experience as a Generalist - ability to move from one area of law to another quickly; to understand when to seek outside counsel for a specialty; has one's finger of the pulse of emerging areas of law, e.g., social media, electronic communications. Requires multitasking and legal triage skills to quickly prioritize tasks and delegate as needed.
- Ability to conduct investigations/negotiate settlements – ability to investigate and evaluate claims against the Town/School; to recommend and execute resolutions as well as to advice Board or School Committee on either settlement or litigation strategy; sufficient experience with collective bargaining and employment law to efficiently use outside counsel. Uses creativity to resolve complex Town and School issues; producing innovative solutions while clearly delineating risk to the client.

- Ability to write complex legal documents and to communicate the underlying legal premises to lay persons – ability to research and write formal, legal opinions, contracts, legislation, Town Meeting articles and other legal documents. Drafts and reviews policies and procedures for departments, boards and commissions, petitioners' warrant article and drafting motions for Town Meeting.
- Litigation experience – experience in both handling and managing staff and outside counsel, handling litigation, trials and appeals, including (i) pleading, discovery and motion practice, (ii) bench and jury trials (state and federal courts) and (ii) briefing and arguing appeals in the Massachusetts Appeals Court, Supreme Judicial Court and 1st Circuit.

### **Leadership Experience (Judgment, and political savvy or gravitas)**

- Proven Leader – ability to lead staff, Board of Selectmen, Department Heads; can describe scenario where he/she turned a situation around or redirected it. Ability to engender respect, work collaboratively; experience working in a strong union environment. Strong interpersonal skills that include persuasiveness, resourcefulness, and discretion on matters which are delicate and/or complex in nature.
- Credibility to advise a wide range of stakeholders, from employees to Department Heads to the Board of Selectmen, citizens, petitioners and Town Meeting to unions, as well as Commission Chairs and regulatory Agencies and Offices; all whom rely on the legal, professional and personal credibility and integrity of Town Counsel. Individual must have demonstrated experience in dealing with and recognizing issues that arise in specialized groups and under-represent or minority populations.
- Political savvy or gravitas - ability to read the political landscape, understand the need to identify stakeholders; need to be available and to seek out stakeholders in an effort to understand their needs and concerns. Interpersonal skills that allow Town Counsel to handle contentious matters in a constructive, inclusive manner. Ability to maintain leadership position under time pressures and stressful circumstances.

### **Superior Communication/Interpersonal Skills**

- Superior Communicator - superior ability to communicate in both oral and written communication; including one-on-one interactions as well as public speaking. Skill in technical legal communication as well as speaking with layperson who are Town actors, including Town Meeting, Department Heads, employees and citizens.
- Ability to speak on one's feet in different venues – As the confidence to comfortably appear at public hearings and meetings, including meetings of the Board of Selectmen, Town Meeting and the Advisory Committee to provide legal advice; ability to maintain leadership position under time pressures and stressful circumstances.
- Diversity/Inclusion/Collaboration – Is able to collaborate with a wide variety of individuals and governmental bodies and agencies to achieve the goals and objectives of the Town and School

including those citizens, employees and students who may be in under-represented or minority groups; appreciating that excellent performance can only be achieved through a diversity of viewpoints.

### **Established Management Experience**

- Management Experience - ability to manage a law office, including staff development and budgets, scheduling and managing a large number of projects and tasks, strong ability to organize, prioritize, delegate and supervise. Understands the importance of being a business partner and able to utilize creative approaches to managing legal costs. (SW)
- Proactive versus Reactive – ability to look forward and counsel and/or train Town and School Departments on best practices, and training of Open Meeting and Conflict of interest laws for members of boards and commissions. Maintain a system of checks and balances to ensure adherence to various delicate areas.

Must be service-oriented, able to make judgment calls; cannot be a road block rather must be able to move the Town and School forward.

- Emerging Technologies – is comfortable using technology to perform legal research, use electronic files, data, GPS and other emerging technologies that the Town and School is adopting in this 21<sup>st</sup> Century, using such technology with an eye to similar legal issues that arise with regard to the use of such technology, e.g., privacy, intellectual property, nexus of personal use to business use.

RECEIVED  
BROOKLINE  
HUMAN RESOURCESJoslin Ham Murphy  
66 Baker Circle  
Brookline, MA 02467

2013 DEC 20 AM 11:45

December 20, 2013

Mr. Melvin A. Kleckner  
Town Administrator  
333 Washington Street  
Brookline, MA 02445

Dear Mr. Kleckner:

Please consider this to be my application for the position of Town Counsel in Brookline.

As a twenty year member of the Office of Town Counsel, I believe that I am supremely qualified for this position. In my role as Associate and now Acting Town Counsel, I advise the Board of Selectmen, the Town Administrator, the School Committee, the Superintendent of Schools, Department Heads, Boards and Commissions, and Town and School Department Administrators and staff, along with other duties. I have represented the Town of Brookline before the majority of administrative agencies that are commonly encountered in municipal practice, and have successfully tried cases as lead counsel in the United States District Court, the Superior Court, and the District Court on behalf of the Town. Recently, I had the pleasure of participating as Acting Town Counsel at the November Special Town Meeting.

Before joining the Office of Town Counsel, I had the extraordinary opportunity of advising and then leading the Chelsea, Massachusetts Police Department as the Interim Chief of Police, at a time when the city was in deep crisis. Although I was offered the position of City Solicitor at the conclusion of my appointment, I maintained my commitment to the Town to join the Office of Town Counsel.

As a Brookline Police Detective, Assistant Attorney General and Assistant District Attorney, I developed the investigative and trial skills that I regularly draw upon as Town counsel.

My professional experience demonstrates my long standing dedication to public service, and in particular, to the Town of Brookline. I hope to continue that commitment as Town Counsel.

A copy of my resume is enclosed for your review.

Very truly yours,

  
Joslin Ham Murphy

Enclosure

**JOSLIN HAM MURPHY**  
66 Baker Circle  
Chestnut Hill, MA 02467

**PROFESSIONAL EXPERIENCE**

***THE OFFICE OF TOWN COUNSEL*, Brookline, Massachusetts**

Acting Town Counsel (July 2013 – present)

Associate Town Counsel (1993 - 2013)

Provide general counsel services to the Town of Brookline, its Departments, Boards and Commissions, and elected and appointed officials. Experience includes representation in the United States District Court, the Supreme Judicial Court, the Appeals Court, the Trial Courts, and various administrative agencies of the Commonwealth, including the Commission against Discrimination, the Civil Service Commission, the Industrial Accident Board, the Appellate Tax Board, and the Bureau of Special Education Appeals. As lead counsel to the Public Schools of Brookline, regularly provide general counsel services to the School Committee, the Superintendent of Schools, and all levels of school administration.

***CHELSEA POLICE DEPARTMENT*, Chelsea, Massachusetts**

Interim Chief of Police (1992 - 1993)

Legal Advisor to the Interim Chief of Police (1992)

Advised the City Receiver and provided critical guidance and leadership to the Chelsea, Massachusetts Police Department in the midst of a city-wide federal corruption investigation. Oversaw daily operations of the Department, supervised command staff, developed and implemented the Department's budget, instituted a training program for command and line officers, and facilitated open and transparent communication between community leaders, citizens, and state and federal investigators and prosecutors. Actively participated in labor matters including collective bargaining.

As legal advisor to the Chief of Police, advised the Chief and command staff in matters relating to operations of the Police Department during a comprehensive, city-wide federal corruption investigation.

***MASSACHUSETTS DEPARTMENT OF THE ATTORNEY GENERAL***

Assistant Attorney General (1991 - 1992)

Assigned to the Criminal Bureau, Special Investigations Unit. Participated in the investigation and prosecution of complex criminal investigations involving organized and white collar crime.

***OFFICE OF THE DISTRICT ATTORNEY***, Middlesex County, MA

Assistant District Attorney (1989 - 1991)

Prosecuted criminal matters in the District and Superior Courts in Lowell and Cambridge. As a member of the Special Investigations Unit, participated in the investigation and prosecution of complex organized and financial crime.

***BROOKLINE POLICE DEPARTMENT***, Brookline, Massachusetts

Patrol Officer and Detective (1980 - 1989)

Following assignment as a night shift patrol officer, represented the Brookline Police Department as Community Relations Officer, Media Liaison, and Court Liaison.

**OTHER EXPERIENCE**

Negotiation Workshop, Harvard Negotiation Institute, Harvard Law School (1996)

Board of Bar Overseers Hearing Committee Member (1996 - 2004)

Heard and presided over multiple attorney disciplinary hearings, drafted decisions, and made recommendations for attorney discipline.

Chairman, Town of Brookline Medical Panel (2004 – 2008)

**EDUCATION**

***SUFFOLK UNIVERSITY SCHOOL OF LAW***, Boston, Massachusetts

J.D. awarded June 1988

***WHEATON COLLEGE***, Norton, Massachusetts

B.A., Government

**COMMUNITY SERVICE AND INTERESTS**

Family Advisory Council, Boston Children's Hospital  
Steering Committee, International Scientific Conference, Abingdon, UK  
National Association of Parliamentarians, George Demeter Unit  
Trustee of the Walnut Hills Cemetery, Brookline, Massachusetts  
Director, The Greyhound Project  
Nationally Ranked Curler

**OFFICE OF SELECTMEN****MEMORANDUM**

TO: Board of Selectmen  
FROM: Melissa Goff, Assistant Town Administrator *MG*  
RE: **Reserve Fund Transfer for Utility Accounts- Library**  
DATE: April 11, 2014

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Attached herewith please find the request for a transfer from the Reserve Fund Account in the amount of \$19,000 for natural gas and water and sewer, for the Library:

A transfer of \$19,000 is needed due to the following accounts:

*Natural Gas:* Projected usage is expected to be higher than what was assumed in the budget. Part of this increase is weather related, and part of it can be attributed to a budget that was based on a series of estimated reads for the Main Library account. The FY14 budget was based on a three-year average of usage history billed for the Library buildings. The Main Library bill history was based primarily on estimated reads. It was discovered that the indoor meter is very old and doesn't have a transmitting device, which is why we were not getting actual reads. We have brought the situation to the attention of our contacts at National Grid so that the building can have a regular read scheduled each month until the meter is replaced and can be read remotely.

FY14 Budgeted usage: 39,082 therms

FY14 Projected usage: 67,700 therms

The projected deficit for this account is approximately \$37,000, but a \$20,000 surplus in the department's electricity account partially offsets this deficit. I am requesting \$17,000 from the reserve fund be transferred to cover the remaining shortfall.

*Water and Sewer:* One of the benefits of budgeting Water and Sewer usage in departmental budgets is that a spike in usage caused by a leak is noticed and addressed promptly due to monthly bill monitoring. Earlier this year there was a leak at the Coolidge Corner Library. As a result I am projecting a \$2,000 deficit in this account.

**Recommended Action:**

Favorable action on the reserve fund transfer of \$19,000.

cc: Sean Cronin  
Chuck Flaherty

**TOWN OF BROOKLINE****REQUEST FOR RESERVE FUND TRANSFER**

Date: April 11, 2014

To the Board of Selectmen:

It is hereby requested that you approve and transmit to the Advisory Committee the following  
Reserve Fund Transfers:

<b>Dept:</b>	Library	<b>Dept:</b>	Library
<b>Amount:</b>	\$17,000	<b>Amount:</b>	\$2,000
<b>Org:</b>	61006140	<b>Org:</b>	61006115
<b>Acct:</b>	561011 (Natural Gas)	<b>Acct:</b>	561030 (Water & Sewer)
<b>Description:</b> See attached memo for details.			

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DEPARTMENT HEAD

APPROVED:

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BOARD OF SELECTMEN





DANIEL C. O'LEARY  
CHIEF OF POLICE

**BROOKLINE POLICE DEPARTMENT**  
*Brookline, Massachusetts*

April 11, 2014

To: Mr. Melvin Kleckner, Town Administrator

From: Daniel C. O'Leary, Chief of Police

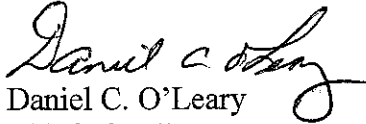
Subject: Authorization to Hire (Civilian Parking Meter Collector)

The Police Department employs two Civilian Parking Meter Collectors on a full time basis. One of these employees will be leaving his position to become a student officer with the Brookline Police Department. Please see attached authorization to hire request form. This is a critical position that needs to be filled.

I would like to appear before the Board of Selectmen to begin the hiring process for a full time Meter Collector position.

Thank you.

DCO/kaf

  
Daniel C. O'Leary  
Chief of Police

Attachment(s)



## Authorization To Hire Request Form

10. The alternatives are less desirable than new hire action for the following reasons:-continued on reverse side-

Authorization To Hire Request Form

11. Suggested sources for specialized recruitment advertising: (other than local papers)

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12. Please attach the current position description.

13. Signatures:

Department Head Signature: <u><i>Daniel C. O'Leary</i></u> <div style="text-align: center;">Daniel C. O'Leary, Chief of Police</div>	Date: <u>4/14/14</u>
Human Resources Director: _____ <div style="text-align: center;">Sandra DeBow, Director</div>	Date: _____
Town Administrator: _____ <div style="text-align: center;">Melvin Kleckner, Town Administrator</div>	Date: _____

14. Approvals:

Date on BOS Agenda: _____	Date Approved: _____
---------------------------	----------------------

15. Notes:

**TRAFFIC METER COLLECTOR**  
**TRAFFIC DIVISION**

- A. **PRIMARY PURPOSE:** The purpose of this position is to collect revenues from parking meters located throughout the Town; to maintain proper oversight of the collection system by loading, unloading, and preparing for counting all monies received; to record and notify supervisors of missing coin cans, malfunctioning meter mechanisms or damaged meters. This position may also be required to staff traffic posts. The incumbent must also perform other related duties as required.
- B. **SUPERVISION:** Works under the general direction of the Commander of the Traffic Division in accordance with established methods and procedures, following department rules, regulations and policies to complete assignments; the supervisor provides general and specific instructions; work is performed independently with minimal supervision.
- C. **ESSENTIAL DUTIES AND RESPONSIBILITIES:**  
*The essential functions or duties listed below are illustrations of the type of work that is performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.*
1. Traffic Meter Collector is responsible for collecting revenues from parking meters, including but not limited to stand alone and multi-space meters, located throughout the Town. Revenues include coins, cash and credit card receipts.
  2. The Traffic Meter Collector is responsible for the following functions, duties and responsibilities:
    - a. Collection Routes shall be collected separately and shall be completed in their entirety.
    - b. Collections shall be made in strict accordance with the Police Department's meter collection system, using locked canisters only;
    - c. Ensure that collections are appropriately and securely transported to Police Headquarters when the route is complete or when all available canisters have been utilized and that the canisters are transferred to the counting room.
    - d. Perform duties related to processing, counting, bagging of coins, and preparing these for transport to a financial institution.

- e. Complete collection receipts, properly reconcile the receipts, and forward them to a Traffic Supervisor for accounting purposes.
- f. The collector is responsible to record and notify supervisors of missing coin cans and ensuring multispace meters are properly stocked to function appropriately.
- g. Ensure all collection equipment is properly maintained, in good working order, including secondary upkeep to ensure that meter collection equipment remains operational; servicing minor problems, arrange for immediate repair via the DPW, and reporting all such operational issues to the Traffic Supervisor.
- h. Traffic Meter Collector is responsible for transporting deposits to the designated depository, once all monies have been reconciled by Traffic, ensure that the monies are deposited, and retrieve and return a receipt to Traffic.
- i. Practice good community relations whenever possible, such as providing street directions; general public assistance, and any other public service that may arise.
- j. Monitor traffic and road conditions for hazardous conditions, possible accident causing conditions, any roadway defects, malfunctioning traffic signal lights, and/or any other condition(s) which impede police traffic services. Report such conditions to his/her supervisor and/or the appropriate agencies.
- k. This position may also be required to staff a traffic post, as required by the Police Chief and or his or her designee.
- l. Perform assigned duties or other related duties under the direct supervision and control of the Commanding Officer of the Traffic Division or his or her designee or by the Chief of Police or Superintendent.

**D. WORK ENVIRONMENT:** Work is performed outside in field conditions; with regular exposure to noise and to pedestrian and motor vehicle traffic; work may be performed in adverse weather conditions, with exposure to hazards associated with handling of heavy coin canisters.

- 1. The employee operates mechanical and non-mechanical equipment, and utilizes various delivery and lift apparatus; employee is required to operate a motor vehicle.

## 11. - 6

2. The employee has contact with the public and other police department employees.
3. Errors could result in damage to meters and other equipment, loss of revenue or poor public relations. Errors are detected through the system of checks and balances, audit and review.



DANIEL C. O'LEARY  
CHIEF OF POLICE

**BROOKLINE POLICE DEPARTMENT**  
*Brookline, Massachusetts*

April 11, 2014

To: Mr. Melvin Kleckner, Town Administrator

From: Daniel C. O'Leary, Chief of Police

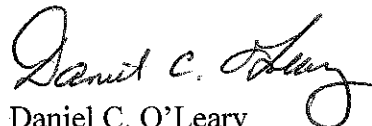
Subject: Authorization to Hire (E911 Dispatcher)

Attached please find an authorization to hire request form filled out by this office. Brian Gallagher, one of our E911 dispatchers will be leaving his position to become a student officer with the Brookline Police Department. This is a critical position that needs to be filled.

I would like to appear before the Board of Selectmen to authorize the filling of this position.

Thank you.

DCO/kaf

  
Daniel C. O'Leary  
Chief of Police

Attachment(s)





# Town of Brookline

## Massachusetts

### Authorization To Hire Request Form

1. Position **TITLE**: Emergency Telecommunication Dispatcher Grade: ETD-1

2. Department: Police Department Division: E911 Dispatch

3. Position Control #: \_\_\_\_\_ Prior Incumbent: Brian Gallagher

a. Reason for Leaving: Leaving for Police Officer Position

4. Budgetary Information:

Department Code: L A Budget Code: 21002010510101 % 100

☐ Grant Funded-Name of Grant: \_\_\_\_\_ ☐ Revolving Fund ☐ Enterprise Fund

6. Employment Type:

☒ Full-Time: # of hours/week: 40 ☐ Part-Time: # of hours/week: \_\_\_\_\_

☒ Permanent ☐ Temporary: expected end date (required) \_\_\_\_/\_\_\_\_/\_\_\_\_

7. Method of Fill:

☐ Promotion – To be Posted Internally from: \_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_

☒ New Hire ☐ Transfer – Please explain: \_\_\_\_\_

8. List the top three essential functions of this position:

1. See Attached job description

2. \_\_\_\_\_

3. \_\_\_\_\_

9. I have considered the following alternatives to filling this position:

\_\_\_\_\_  
\_\_\_\_\_

10. The alternatives are less desirable than new hire action for the following reasons:-continued on reverse side-

\_\_\_\_\_  
\_\_\_\_\_



Authorization To Hire Request Form

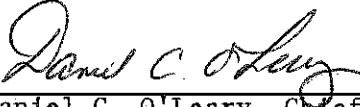
11. Suggested sources for specialized recruitment advertising: (other than local papers)

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12. Please attach the current position description.

13. Signatures:

Department Head Signature:	<u></u>	Date:	<u>9/14/14</u>
	Daniel C. O'Leary, Chief of Police		
Human Resources Director:	_____	Date:	_____
	Sandra DeBow, Director		
Town Administrator:	_____	Date:	_____
	Melvin Kleckner, Town Administrator		

14. Approvals:

Date on BOS Agenda: _____	Date Approved: _____
---------------------------	----------------------

15. Notes:

**EMERGENCY TELECOMMUNICATION DISPATCHER****A. SUMMARY**

The Dispatcher receives all oral communications from the public and law enforcement personnel coming into the police station. By following established procedures and employing common sense, he or she transmits requests for service to the appropriate location.

Subject to the provisions in the Manual sections covering Policies and Procedures, the Dispatcher has the primary responsibility for the initial deployment of law enforcement personnel and equipment.

**B. GENERAL DUTIES AND RESPONSIBILITIES**

It is the duty and responsibility of the Dispatcher to:

1. Report any deployment of police officers beyond their regularly assigned routes or sectors to the Officer-in-Charge.
2. Inform the Officer-in-Charge whenever a police vehicle is out of service.
3. Announce the call letters of the Department as issued by the Federal Communications Commission.
4. Be thoroughly familiar with the Department's procedures relating to use of radio and other communications equipment.
5. Acquire a thorough knowledge of the location and lay-out of streets, buildings, parks, housing developments and other significant areas of the community so as to maximize the accuracy and speed of dispatches.
6. Respond to all complaints received in a calm and civil manner.
7. Be familiar with emergency procedures that relate to matters requiring urgent police attention so as to be capable of activating them immediately.
8. Coordinate police, fire and ambulance activities at the scene of crimes, motor vehicle accidents, fire scenes, etc.
9. Keep personnel who have been dispatched on calls fully informed of all facts affecting the safety or efficiency of their response to the call. Review all data in the CAD for all hazards.

10. Inform the Officer-in-Charge when contact with an officer on patrol cannot be made after a unit is paged twice.
11. Maintain equipment, especially the emergency call lines, in working order and immediately report any malfunction or defect to the Officer-in-Charge.
12. Utilize the CAD system to assign units to calls, arrive units at scene and update system with dispositions of incident.
13. Render assistance to the members of the general public who make inquiries at police headquarters.
14. Monitor the alarm panel for all alarms.
15. Monitor CCTV's for interior, cellblock, and outside perimeter security.
16. Operate the E911 system. Receive, transfer and record calls.
17. Monitor BAPERN and Intercity channels for radio traffic of interest to the Brookline Police.
18. Monitor and utilize the LEAPS/NCIC computer system. Enter, modify and cancel various records.
19. Answer all telephone calls promptly and respond by stating "Brookline Police Department", followed by his/her rank and surname as well as informing the caller that they are being recorded.
20. Perform any other duties as assigned by the Chief of Police or the Commanding Officer – Platoon on Duty.





# Town of Brookline

## Massachusetts Department of Public Works Engineering & Transportation Division

### TRANSPORTATION BOARD

JOSHUA SAFER, CHAIRMAN  
PAMELA ZELNICK,  
VICE CHAIRMAN  
CHRISTOPHER DEMPSEY  
GUSTAAF C.M. DRIESSEN, PE  
SCOTT ENGLANDER  
ALI TALİ, PE

March 24, 2013

Board of Selectmen  
Advisory Committee Members  
Town Meeting Members  
Town of Brookline, MA

Dear Colleagues,

Today, trains filled with up to 260 MBTA customers must wait as six (6) brand-new signals give right-of-way to private vehicles, slowing MBTA service, frustrating passengers, and diminishing the transit riding experience. Brookline residents and businesses appreciate and depend on the C Line and other Green Line branches for essential mobility in our dense urban neighborhoods. Since 2008 Transportation Board members and Town staff have expressed our Town's desire to work collaboratively with the MBTA to address unnecessary delays to help make the service function as intended. Finally the current management team of the MBTA is responsive to these types of service improvements and is currently taking steps to make it feasible for the Town to implement a Transit Signal Prioritization (TSP) program along the C Line by 2016.

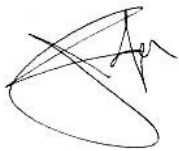
TSP is a tool that improves the ability of transit vehicles and automobiles to safely and effectively share limited roadway space. The technology has proven effective in reducing transit delays by up to 40% and improving travel times by up to 20% in numerous US and European communities. According to the most recent available data the MBTA C-Line serves over 14,000 riders per day, with over 35% of the commuters living along the Beacon Street corridor using public transit as their primary form of transportation. By implementing a TSP program the Town has the ability to make real strides toward our collective goals of improving alternative modes of transportation, reducing congestion on our roadways, and improving our local air quality and our overall quality of life.

Last year Town Meeting adopted Article 22, a resolution which directed the Department of Public Works to include funds in their FY 2015 CIP budget to pay for the necessary study to aid the Town in making an educated decision on the costs and benefits of a TSP along the C-Line. While it did not allocate funds, the vote expressed Town Meeting's desire to have staff

take the next step in this important initiative. Accordingly the Commissioner of Public Works has allocated \$50,000 to pay for the necessary study to determine the means by which TSP would be implemented, the locations where it is feasible to be implemented, the costs of implementation, and the benefits in time saved that will be experienced by our residents so the Town can make an educated decision on whether or not this project should be pursued in the future.



The Transportation Board, by a unanimous vote, requests that you support this funding line item as presented by the Commissioner of Public Works in his department's FY 2015 CIP budget.

Sincerely (on behalf of the full Board),





Joshua Safer  
TMM Precinct 16 &  
Chairman, Brookline Transportation Board

cc: Mel Kleckner, Town Administrator  
Andrew Pappastergion, Commissioner - Department of Public Works  
Peter M. Ditto, Director - DPW Engineering & Transportation Division

From:  **Melvin Kleckner**  
"Michael A. Sandman" <msandman@fuld.com>  
Subject: Fwd: Article 10 - notes from April 7 meeting  
To:  **Patty Parks**



Attachments:  Article 10 April 7 hearing minutes.docx / Upload...  
 ARTICLE 10 Rebecca Stone revision.docx / Upl...

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----- Original Message -----

Greetings –

Attached are notes from the April 7 hearing on Article 10. At the end, there is a list issues we should deal with in our next meeting, on April 16. I will have some draft language for the subcommittee before that meeting. This is not a closed list, as we may receive additional public comments on the 16<sup>th</sup>.

Also attached is suggested revision of the proposed bylaw authored by School Committee member Rebecca Stone. She proposes language that replaces the provisions giving the new commission power to direct the Schools with a clause at the end of the proposed bylaw that references the Schools.

Rebecca will not be at our next meeting because it coincides with the League of Women Voter's candidates' night, so I will convey her comments.

See you on the 16th at 7:00 PM in Room 103.

Mike Sandman

Michael Sandman

115 Sewall Ave.

Brookline, MA 02446 USA

+1 617 492-5900 ext. 1943 - work

Printed by: **Patty Parks**

Monday, April 14, 2014 8:57:27 AM

Title: Fwd: Article 10 - notes from April 7 meeting : Brookline E...

Page 2 of 2

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+1 617 232-7125 - home



Article 10 Hearing April 7, 2014

The ad hoc subcommittee on Article 10 met on Monday, April 7, 2014 at 6:45 PM in the Denny Room of the Public Health Building. (A second hearing will be held at 6:30 PM on April 16.)

Selectman Nancy Daly spoke on behalf of the Selectmen's Committee on Diversity, Inclusion, and Affirmative-Action, which submitted the article. The article contemplates completely replacing bylaw 3.14 and creating a new Diversity, Inclusion, and Community Relations Commission and a new Diversity, Inclusion, And Community Relations Department.

Ms. Daly explained that the purpose of the article is to make the Commission more relevant and ensure cooperation and coordination with Town government and the School Department. The expectation is that that this would reduce isolation and improve the 's Commission's effectiveness. One key element of the proposed structure is the appointment of a Chief Diversity Officer (CDO). The Committee assumed that the CDO would be the staff person responsible for supporting the Commission, but that is not required by the proposed bylaw.

As envisioned by Article 10, the Commission would work on policy, not on personnel matters. Employees with issues related to diversity would go to the CDO, not the Commission. Other persons with issues related to diversity would go to either the CDO or the Commission. Ms. Daly noted that when the state originally encouraged municipalities to establish Human Relations Commissions in the 1970s, the commissions were envisioned as "mini-MCADs".

The selectmen's committee recognized that there was some question as to whether the School Department can be required to report to a Town commission, but it assumed that requests could be directed to the Schools. The article as submitted requires the Schools to submit specific data, notably EEO Form 5, but not to bring individual cases to the Commission. The rationale is that Commission will need data in order to carry out its duties, but the intention is to request relevant employment data from the Schools, not demand it.

Ms. Daly said that the number of commissioners on the current HR/YR Commission was raised to 15 when youth services were added. The original commission established in 1970 had 12 members. The committee split between those who advocated for 15 members and those who preferred to have 11. As submitted, Article 10 provides for a commission of from 11 to 15 members, with the number to be determined by the BoS.

Town Administrator Mel Kleckner spoke in opposition to the requirement that a new department be established. He defined a department as an office with its own budget and program. He commented that the department that was disbanded in May 2013 had evolved into an inefficient representative of the Commission, partly because it was a department of one. He said that there is now a department head (Dr. Balsam) who provides leadership on the subject of diversity and that Dr. Gellineau was able to provide effective support to the Commission with the help of one staff person and one intern. Mr. Kleckner supported the idea of having a CDO.

Ms. Daly responded that committee members felt that the title of department head was important in dealing with peers. Mr. Kleckner commented that the term department head implies hiring a

new department head, but Bernard Greene, a member of the Selectmen's Diversity Committee said that was not necessarily the case. He noted that whether the role was described as department head or division head, the head would need resources - more than one person.

With regard to the Commission's role in dealing with complaints about diversity in Brookline, Mr. Kleckner said that an appointed body subject to the Open Meeting Law should not deal with individual complaints beyond serving in a mediator role.

School Committee member Rebecca Stone said that the school committee does not want to take a position on the article, but that committee members were concerned that the article as submitted requires the School Department to submit certain data. She pointed out that the schools "are not subject to review by any Town body." She suggested that phrases in the article that mention the Schools are mentioned should be deleted and that a clause should be added at the end of the article that would urge and encourage the Schools to provide information and cooperate with the new Commission rather than setting any requirements to do so. Diversity Committee members present at the hearing were not happy with that solution. They suggested softening the several references to the Schools to remove language suggesting that the Commission could compel a response from the Schools.

Ken Kurnos, chair of the human resources board, objected to the nature of the relationship between the Commission and the CDO as it is envisioned in the proposed bylaw. His view was that the CDO should provide direction to the Commission, and that the Commission should not be in a position to direct the CDO to undertake specific actions. He also pointed out that the mission statement for the Commission states that diversity is a "critical interest" of the town and he was concerned that this language would lead to a conclusion that quotas for employment of minorities are needed. And he pointed out that there were groups of people included as "protected classes" that were not included under state law. He did not feel it was appropriate to have students on the Commission and did not report to require the Town Administrator to consult with it. Mr. Kurnos also pointed out that the task of creating and affirmative-action policy is assigned to the Human Resources Board by law 3.15

Subcommittee members expressed disagreement with Mr. Kurnos's view that the Commission should not be in a position to give direction to the CDO. They pointed out that numerous appointed boards and commissions provide direction and set policy for Town agencies. However, there was agreement that there was some risk that mediation, even in executive session, could undermine the rights of a complainant. There was agreement that the terms "ombudsman" and "investigate" needed to be clarified.

Regina Frawley pointed out that the 2009 Committee on Efficiency said that the Human Relations/Youth Resources staff support should not come from a one-person department.

Human Resources Director Sandra DeBow said that there was a slight risk of violating the direct dealing rule if a Town employee who was a union member made a complaint to the CDO, because the union is the sole representative of union members in dealing with the Town on employment issues. She said that the language in the proposed bylaw could be tighter in order to avoid that risk.

Cornelia van der Zeil said that the CDO should have a proactive role, and she questioned whether the CDO's role as ombudsperson was sufficiently clear.

Larry Ohne, a member of the current Human Relations/Youth Resources Commission, urged that the new Commission have 15 members, not 11. He pointed out that the whole topic of the Commission had been brought forward by an activist group on the current HR/YR Commission, and he asked that their contribution be acknowledged.

Patricia Connors stated that EEO 5 is an important form and that the data on it would be needed in order to understand the extent to which the Town and the Schools had achieved diversity in employment. She also pointed out that a quorum should be a majority of the number of seats on the Commission, not the number of serving members, because otherwise the BoS might not feel the need to fill vacancies in a timely way.

Open issues:

- The number of members on the Commission (Eleven? Fifteen? Eleven to fifteen at the BoS's option?)
- The members of the Selectmen's Diversity Committee felt that it was important to give the Commission the power to "investigate" complaints from citizens, but the term "investigation" needs to be clarified, perhaps in a way that specifically limits the Commission to bringing relevant facts together.
- The language giving the CDO a role in receiving complaints from employees needs to be revised in order to avoid the risk that the CDO would be drawn into actions that would constitute "direct dealing" with a union member.
- Based on the way the article is written, if there were only three serving commissioners, two members would constitute a quorum. That needs to be revised
- The language of the article should be amended to reflect the independence of the Schools. Ms. Stone has provided a draft that would accomplish that and her draft is appended to this report.
- There are a number of bylaws that refer to diversity issues and in some cases those bylaws refer to the Human Relations/Youth Resources Commission. Article 10 should be amended with language that provides that "in case of any conflict between this Article 3.14 and other bylaws, the language in article 3.14 will prevail." (Note that this would effectively transfer responsibility for creating and affirmative-action policy from the Human Relations Board to the Commission unless that power was removed from the proposed bylaw.)
- The proposed bylaw includes a provision that would allow the BoS to appoint students attending the public schools of Brookline. Since the point of this provision is to allow

for representation of youth on the commission, this probably should be changed to allow the selectmen to appoint students whether they attend public school or private school, or are being home schooled.

Friendly amendments and scrivener's errors:

Ms. Dailey accepted a friendly amendment to the language defining the number of members which should now read, "The Commission shall consist of no less than eleven (11) and no more than fifteen (15) residents of the town or students..."

The title of Section 3.14.2 should say "Community Relations Department" rather than "Division" [subject of course to an amendment that creates a community relations division rather than a department].

**ARTICLE 10**

Submitted by: Selectmen's Diversity, Inclusion, and Affirmative Action Committee  
 To see if the Town will revoke Article 3.14 of the Town By-laws and replace it with the following version of a new Article 3.14,  
 or act on anything relative thereto,

**DIVERSITY, INCLUSION AND COMMUNITY RELATIONS COMMISSION  
 AND DEPARTMENT**

**SECTION 3.14.1**

**ESTABLISHMENT AND MISSION**

This by-law establishes the Diversity, Inclusion, and Community Relations Commission (the "Commission") and the Diversity, Inclusion, and Community Relations Department (the "Department").

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Department, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline ("the Town"), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The mission of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, & creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, "Brookline Protected Classes").

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) that the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) that justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and (4) that the commitment of the Town to these principles

requires vigorous affirmative steps to carry out the word and spirit of the foregoing. The Commission shall consist of eleven (11) to fifteen (15) residents of the Town or students who attend a Brookline Public Schools school in Brookline (whether public or private), who shall be called Commissioners.

••••• I, personally, would advise that student participation be limited at least by age, e.g. "students aged 16 years or older" and that the by-law say something about how such students may be nominated for the Commission – e.g. by a school principal or headmaster;

Commissioners shall be appointed by the Board of Selectmen (the "BOS") and shall hold office for a period of three (3) years except that of the eleven (11) to fifteen (15) Commissioners first appointed; three or 1/3 of the total (3-5) shall be appointed for one (1) year, four or 1/3 of the total shall be appointed for two (2) years, and four or 1/3 of the total shall be appointed for three (3) years. The term of office of the Commissioners shall expire on August 31 of the appropriate year. The BOS may expand the size of the Commission by adding additional non-voting auxiliary members as it determines to be necessary, which may include youth who reside in Brookline or attend a Brookline Public Schools school in Brookline (whether public or private). The BOS shall select one of its members to serve *ex officio* as a non-voting member of the Commission. A quorum of the Commission shall consist of a majority of appointed voting Commissioners.

••••• See comment above regarding appropriate age of youth for such a role.

The BOS shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training as is necessary to enable the Commission to perform the duties assigned to it by this Bylaw. All Commissioners shall serve without compensation.

••••• Third reference to youth; see above comments

In the event of the discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the BOS

9 candidates to fill such vacancies. The current Human Relations/Youth Resources Commission shall be dissolved at the time that appointments are made for the Commission established by this Bylaw. However, the current Human Relations/Youth Resources Commissioners may be considered for appointment to the new Commission.

#### SECTION 3.14.2

##### APPOINTMENT-, ROLES AND RESPONSIBILITIES OF THE DIRECTOR OF THE DIVERSITY, INCLUSION AND COMMUNITY RELATIONS DIVISION AND THE CHIEF DIVERSITY OFFICER

The Town Administrator, in consultation with the Commission, shall recommend to the BOS for appointment a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Diversity, Inclusion and Community Relations Division (the "Director"). The Director may also serve as the Chief Diversity Officer ("CDO") for the Town. The Town Administrator, in consultation with the Commission may alternatively recommend to the BOS the appointment of a separate person to serve as CDO.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this Bylaw or any other Bylaw giving the Commission responsibilities. If needed, the Department Head shall ask for additional assistance to carry out that person's duties.

The CDO shall report to the Town Administrator. The CDO may bring a matter directly to the attention of the BOS in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO may attend meetings held by the Town Administrator with Department Heads, and ~~and~~ work with the Human Resources office to promote diversity and inclusion.

The CDO shall serve in the role of ombudsperson to provide information and guidance and dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the BOS of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The policy shall address hiring, retention, and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town

40  
Counsel, or such other body as the CDO deems appropriate. The CDO will report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who comes in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after having sought the services of the CDO in said officer's role as an ombudsperson, the CDO may discuss the case in general terms with the Commission (see section 3.14.3 (A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against

Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The CDO shall hold all such Town/employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss, in general terms, the problems or issues that such individual cases suggest with the Commission, provided however, that there is no ongoing or threatened litigation concerning the matter, and doing so does not violate any persons rights to privacy.

### SECTION 3.14.3

#### POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the Division, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

- (i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;
- (ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;
- (iii) Work with the BOS, the Town's Human Resources Office,  
~~the School~~  
~~Committee,~~ and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, awareness, and sensitivity to civil and human rights in all departments and agencies of Town government;
- (iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the BOS, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto; make suggestions, through the CDO, to the Human Resources Director ~~and,~~  
~~the Human Resources Board,~~ ~~and the School Committee~~ on the implementation of the diversity, inclusion, equal employment opportunity, and affirmative action policies;
- (v) Complaints Against the Town: Receive complaints, through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see section 3.14.2), and initiate preliminary review of the alleged facts, without drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any



Town agency, Town official or employee; and after an affirmative vote by a majority of the Commission (1) present the alleged facts to the Town Administrator, and/or the BOS, and/or the School Superintendent for further action and/or

(2) provide the complainant with information on their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agencies. This bylaw does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Offices procedures;

(vi) Complaints Against the Public Schools of Brookline: Should the CDO or Commission (independently or through the CDO) receive a complaint against the Public Schools of Brookline, the Commission/CDO may provide counsel or guidance to the complainant regarding dispute resolution and the boards or agencies to which the complainant may appeal, and shall notify the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint. The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.

**(vii) Other Complaints:** Receive complaints, according to procedures developed by the Commission and as approved by the BOS, and initiate preliminary review of the facts, without drawing any legal conclusions, from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. The Commission shall also have the authority, in its discretion, to take one or more of the following actions:

- (1) Provide the complainant with information about their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agency;
- (2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service;
- (3) Present any results of preliminary review of the alleged facts to the Town Administrator, and the BOS  
and/or the School Superintendent, and  
School Committee, in an appropriate case, for action;

(viii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v) and (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the Annual Report filed with the Board pursuant to Section 3.14.4 of this Bylaw.

••••• This WA refers to the Town and its agencies and officials. It also references hiring staff responsible to the Town Administrator and development of procedures and guidelines approved by the BOS for Town Human Resources and for taking and investigating complaints against the Town. The Schools are not an agency of the Town, the Superintendent is not an official of the Town, and teachers/staff are not employees of the Town, therefore the WA does not encompass the PSB. A complaint against the Schools, therefore, cannot be subject to Town policies and procedures, but should be routed to whatever agency (Fed, State, or local) would normally take and investigate a complaint. See new subsection vi. The CDO/Commission can certainly help complainants understand and navigate that system, but the CDO cannot act as ombudsman as he/she may do with the Town, nor bring School-related complaints to the Commission for investigation of "fact, though of course the CDO is welcome to report to the Commission that a complaint against the Schools came to his/her attention. Neither can the PSB be required to recognize or respond to any purported findings of the Commission.

See new section vi

••••• See new section vi

12

(viii) Develop official forms for the filing of complaints under paragraphs (v) and

(vi) above and also procedures for the receipt and follow-up by the Commission of such complaints;

(ix) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this Bylaw in relation to Fair Housing;

(xi) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson to facilitate necessary changes that will reduce and eliminate violations of rights;

(xii) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;

(xiii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to those youth needs.

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the BOS and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevancy and

validity and for its openness to diverse viewpoints and perspectives;

43

(iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town Bylaws.

(C) On a bi-annual basis, prepare written organizational goals for the Commission (the "Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) time bound as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the BOS at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the BOS at the public meeting and shall also receive and consider written comments from the community on the Commission's Goals.

#### SECTION 3.14.4

##### RULES AND REGULATIONS

In order to carry out the purposes and provisions of this Bylaw, the Commission, with the approval of the BOS, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues; and may establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing. Such rules and regulations may also provide for the governance of the Commission with respect to matters such as the appointments of subcommittees as necessary to deal with specific community issues or concerns; and may provide procedures and standards for recommending to the BOS the removal of a Commissioner for cause, including missing a specified number of meetings.

#### SECTION 3.14.5

##### INFORMATION, COOPERATION, AND DIALOGUE

The Town Administrator shall be notified of all complaints that the CDO/Commission receives

from any persons who come in contact with the Town related to discrimination or unfair treatment due to their status as a member of a Brookline Protected Class. ~~In the event that such complaints fall within the purview of the~~

~~Superintendent of Schools, the~~

~~Superintendent shall also be notified. All Town departments and agencies in the Town shall~~

cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on

them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

14

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff.

The Police Chief shall present a report to the Commission on other police matters that touch on the Commission's mission.

In addition, the Commission requests that the Superintendent of Schools, School Superintendent and the Library Director, or their designees, shall annually present a report to the share with the Commission concerning their annual statistics on employment diversity, including but not limited to the most recently completed EEO-5 forms, and on any other prepared matters data or reports that would may be relevant to the Commission's mission.

The Police Chief shall present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including as well as the

Brookline Public Schools, Public Schools of Brookline, are encouraged to cooperate with the Commission's as it reasonably requests.

#### SECTION 3.14.6

##### PUBLIC SCHOOLS OF BROOKLINE

The Public Schools of Brookline (including the Superintendent of Schools and the School Committee), distinct from the Town and its departments and agencies and therefore not covered, unless specifically noted, by this by-law, are encouraged to establish and maintain regular contact and dialogue with the Commission, consistent with the PSB's core values of Educational Equity and Respect for Human Differences, and toward our common goals of diversity and inclusion in all aspects of daily life in Brookline.

#### SECTION 3.14.7

##### REPORT

The Commission shall submit an annual report to the BOS, the School Committee, and the Board of Library Trustees, detailing its activities and the results thereof. The Annual

Report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources ~~the School Superintendent, the Library Director,~~ and other Town departments or agencies, (iv) a narrative discussion of any impediments to the achievement of the Commission's Goals and the implementation of the diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

#### SECTION 3.14.87

##### FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this Bylaw and any other related Town bylaws, in consultation with other pertinent departments, and suggest changes if necessary.

#### SECTION 3.14.8

##### SEVERABILITY

The provisions of this Bylaw shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder of this Bylaw shall continue to be in full force and effect.

when he later disclosed to his graduate students that he was a transsexual, the Director harassed him and then told him not to come back. In written testimony, the Petitioner stated that he was "ostracized, vilified, threatened, and harassed" during his gender transition while his son was at Runkle. Other testimony in support of Article #31 was given by the Freedman-Gurspons, whose child, a transgender woman of color, has faced much harassment. ("That's a man, let's go beat her up"), as well as a letter from Virginia Greenzang about her niece whose transition to a man has been accompanied by a constant fear for his safety.

Throughout the hearing and in the literature provided, there was much information about the emotional and physical burdens of being transgender persons. The suicide rate among transgender individuals is high. (41 % of 6,450 transgender and gender non-conforming participants from all 50 states in a 2011 study by the National Gay & Lesbian Task Force and the National Center for Transgender Equality, reported attempting suicide, compared to 1.6% of the general population.)

The Schools Subcommittee VOTED UNANIMOUSLY 4-0 IN FAVOR of Article #31, as amended (as underlined in bold below, with no changes is the "whereas" clauses)

BE IT RESOLVED that the Town of Brookline, consistent with its strong commitment to diversity and inclusion, affirms its support for the prohibition of discrimination or harassment on the basis of gender identity and gender expression in employment, housing, public accommodations, credit and lending, and public education, and hereby requests that the Legal Services Department propose appropriate changes that are consistent with this purpose to all relevant Town By-Laws and that such changes be included in the Warrant for the November 2014 Town Meeting, or as soon thereafter as is reasonably feasible.

*This was  
approved unanimously  
by the Full School Committee*

ART  
13

Bohrs: Issues: 1) Perimeter with enough transit time that students cannot get a smoke between classes: 2) who is affected – name – could include minors and perhaps school staff.

**Votes:**

Upon motion duly noted and seconded, the committee voted in regard to the Amendment to WA 13 In section 8.23.4: to amend person 'and replace with 'minors' :

**Vote:** 6 in favor – 10 opposed – 1 abstained

Upon motion duly noted and seconded, the committee voted in regard to the Amendment to WA 13 In section 8.23.4: to amend 'person' to 'minor and school personnel':

**Vote:** 15 in favor – 2 opposed – 1 abstained

Upon motion duly noted and seconded, the committee voted in regard to the Amendment to WA 13 to reduce the perimeter from 400 to 100 feet:

**Vote:** 7 in favor – 11 opposed – 2 abstained

Upon motion duly noted and seconded, the committee voted in regard to WA 13 as Amended to replace 'persons' with 'minors and school personnel':

**Vote:** 14 in favor – 4 opposed – 2 abstained

**2. Agenda Item: WA 14. Amendment to Article 8.23 of the Town's By-Laws – Tobacco Control – increase the legal age to purchase tobacco products from 19 to 21. (Petition of Nathan Bermel)**

Presenting for the subcommittee is: Lea Cohen

See Appendix for Report of Subcommittee.

Also Present: High School Students, and HS students Nathan Bermel and Mary Fuhlbrigge, petitioners

Bermel: This warrant would replace word 19 with 21 in definition of minor in Tobacco By-Laws.

Note: 7-11 store near BU who relies on this cigarette business would be extremely negatively affected by this article as most of their customers, college age, come to buy cigarettes.

Q: Towns that have age 21 minimum age did it by health regulation. Why not do that here? Balsam: They come to town meeting to develop a community base and support for health regulations.







**BOARD OF SELECTMEN  
TOWN OF BROOKLINE  
REGISTERED MARIJUANA DISPENSARY (RMD) REGULATIONS  
(As voted: \_\_\_\_\_)**

**1. Purpose; Licensing Authority; Conflicts of Law; Term of License**

The purpose of these regulations is to implement Article 8.34 of the Town's By-Laws entitled "Registered Marijuana Dispensary (RMD) Licenses" and its stated purposes, namely, to prevent and minimize any possible adverse public health and safety consequences that could result from the establishment of Registered Marijuana Dispensaries ("RMDs") within the Town pursuant to Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana" (the "Act"), while at the same time recognizing the goal of the Act of making medical marijuana available to qualifying patients.

Pursuant to Article 8.34, the Board of Selectmen ("Board") is the licensing authority for RMDs. The Board promulgates these regulations under the authority granted to it by Article 8.34 and 105 CMR Part 725.

RMD licenses issued by the Board shall be valid for a one-year period beginning on January 1. All RMD licenses issued by the Board are subject to and conditioned on compliance with applicable State and local laws, regulations, by-laws and codes, including, but not limited to, these regulations, 105 CMR Part 725.00, the Town of Brookline's By-Laws, the Town of Brookline's Zoning By-Laws, all applicable building, fire prevention, zoning, health and sanitary codes, and any conditions the Board imposes on specific licenses.

Where there is a conflict between State law or regulation and these regulations or a condition on a license, the State provision shall govern. Where there is a conflict between these regulations and a condition on the license, the condition shall govern. The Board reserves the right to modify and supplement these regulations and the conditions on any license after due notice and hearing or the opportunity therefor.

2014-04-02 DRAFT

**2. Definitions; Incorporation By Reference of Amendments to 105 CMR Part 725**

Terms used within these regulations that are also used in 105 CMR Part 725 shall have the definitions contained in 105 CMR Part 725.004.

“DPH” means the Massachusetts Department of Public Health.

Where these regulations reference specific provisions of 105 CMR Part 725, they incorporate by reference any subsequent amendments to those provisions.

**3. Application for a New or Renewed License**

All applicants for a Town RMD license shall ~~have received~~ all necessary approvals, licenses and permits from DPH pursuant to 105 CMR Part 725.00.

All license applications must contain complete and truthful information. Submission of an application containing material false information may be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Board until it is fully complete. Annual license fees shall be payable immediately upon approval of the license by the Board. License fees shall not be prorated and are not refundable.

Application and license fees shall be in an amount established by the Board pursuant to Massachusetts General Laws Chapter 40, Section 22F.

In determining whether or not to grant a request for a new license, the Board may consider the applicant’s demonstrated ability to maintain compliance with 105 CMR Part 725 and these regulations. The Board may also consider the suitability of the applicant and the applicant’s Board Members, Executives, Directors and Managers pursuant to criteria set forth in Article 8.30 of the Town of Brookline By-Laws, the Town’s CORI Policy: Licensing, and 105 CMR Part 725. All RMD Board Members, Executives, Directors, and Managers must be at least 21 years of age. No RMD license applicant, Board Member, Executive, Director or Manager shall have been convicted of a felony drug offense in Massachusetts, the United States, or a military, territorial, or Indian tribal authority.

Prior to issuing a new or renewed license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, Building Department, and Planning Department, as appropriate, and shall hold a hearing on the application.

The Board or its agents may specify the materials to be submitted with an application for a new or renewed license, which may include:

- the applicant’s or licensee’s application to DPH for a new or renewed RMD registration;
- proof that during the license period, the applicant has in effect a general liability insurance policy or an escrow account as required by 105 CMR Part 725.105(Q);

2014-04-02 DRAFT

- a diagram of the premises reflecting limited access areas, surveillance areas, walls, partitions, counters, all areas of entry and exit, areas of propagation, vegetation, flowering, processing, production, storage, disposal, and retail sales areas, and any other items and areas as may be specified in 105 CMR Part 725.110(C)(2);
- a description of proposed or current security measures, including but not limited to those required by 105 CMR Part 725.110;
- adequate documentation reflecting DPH's approval or issuance of any registrations, certificates of registrations, permits, or licenses pursuant to 105 CMR Part 725 applicable to the license period;
- proof of a legal right to the licensed premises for the term of the license, such as ownership papers, tenancy documents, or a management contract;
- policies and procedures for patient or personal caregiver home-delivery; and
- a detailed summary of the applicant's or licensee's policies and procedures for the provision of marijuana to registered qualifying patients with verified hardship without charge or at less than the market price and to otherwise meet the requirements of 105 CMR Part 725.100(A)(6).

The applicant's or licensee's failure to comply with any state or local law, regulation, by-law or code may be cause for denial of the application. This includes, but is not limited to, 105 CMR Part 725, the Town's Zoning By-Law, State and local health codes, State Building Code, and State Fire Code. The grounds set forth in 725.405 for denial by DPH of a renewal application shall be grounds for non-renewal of a Town license.

#### **4. Taxes and Charges**

All taxes and charges owed to the Town must be paid on a current basis. The Town may sanction a licensee who fails to do so, pursuant to these regulations and Art. 4.7 of the Town By-Laws.

#### **5. Transfers; Changes in Board Members, Executives, Directors and Managers; Modification of Premises**

No licensee may transfer a license to another person or entity, or transfer the license or operations to another location, without Board approval. An RMD must obtain Board approval for a change to or addition of a **Board Member**, Executive, Director or Manager, **who shall be qualified according to the criteria set forth in Section 3.**

Any transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.

A licensee must apply for and obtain the approval of the Board or its designee prior to making any structural change to the premises or change in limited access or surveillance areas. An

**2014-04-02 DRAFT**

application for any such change shall be accompanied by a description, illustration and/or detailed plan describing the proposed change.

#### **6. Display of Licenses**

The licensee shall display its license on the premises in a conspicuous place where it can be easily read.

#### **7. Manager and Alternate Managers**

No corporation or other legal entity shall be approved for a license unless the entity, by vote of its board of directors as demonstrated by a vote certified by the clerk or secretary of the entity, has appointed a Manager for the licensed premises whom the Board has deemed capable of fulfilling his or her managerial responsibilities as set forth herein. The Manager must be at least 21 years of age and of suitable character. With the approval of the Board or the Board's designee, a corporation or other legal entity may appoint Alternate Managers (who must be at least 21 years of age) to be in charge in the absence of the Manager in number sufficient to meet operational needs, however, the Manager must be on the premises the lesser of either fifty (50) percent of the time the premises are open, or forty (40) hours per week during operational hours. At no time shall the premises be open without a duly-appointed and Board-approved Manager or Alternate Manager in charge. A written record shall be kept which identifies the manager on duty for each shift.

The Manager shall be responsible for the proper supervision and operation of the licensed premises and the licensee's compliance with these regulations, whether present or not. The Manager shall cooperate in all ways with Town Officials in ensuring safe and orderly facilities and operations.

No appointment of a Manager or Alternate Manager shall be effective unless and until approved by the Board.

#### **8. Town Inspections and Maintenance of Required Records on Premises**

The Town's authorized inspectional departments may conduct inspections of the licensed premises and of any RMD transportation vehicles in connection with the Town's receipt of an application for a new or renewed license. Records required to be maintained by the licensee pursuant to state or local law, including 105 CMR 725 and these regulations, must be maintained on the licensed premises and made available for inspection upon request. Inspections shall be made on week-days during normal Town business hours. In addition, inspections of the licensed premises may be made at other times (including but not limited to evenings and weekends) to investigate complaints or other concerns. Inspections may include all areas occupied, used or controlled by the licensee and within the structure containing the

**2014-04-02 DRAFT**

licensed premises, in addition to documents required to be maintained by the licensee. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re-inspection fees.

**9. Security Measures**

A licensee shall have in place security devices, written operating procedures and measures that comply with 105 CMR Part 725, including but not limited to 105 CMR Part 725.110, and that have been approved by the Board or its designee. The Board may condition a new or renewed license on any additional security measures it may deem advisable based on site-specific or other considerations. The licensee shall not make changes to Town-approved security devices and written operating procedures without seeking and obtaining approval for the changes by the Board or its designee.

**10. Hours of Operation**

The hours of operation shall be restricted to those set by the Board. The licensee shall not change its hours of operation without Board approval.

**11. Limitation Use of Products on Licensed Premises**

Consumption of marijuana and MIPs on the licensed premises is prohibited except as may be ~~permitted consistent with~~ 105 CMR Part 725.105(N)(8) and any requirements by the Department of Public Health.

**12. Signage, Marketing and Advertising**

Signage must conform to 105 CMR Part 725.105(L) and the Town's Zoning By-Law and must be approved by the Brookline Planning Board.

**13. Required Documentation Available for Inspection**

Licensees must maintain on the premises, and make available for inspection at the request of the Board or its agents, documents reflecting current written operating procedures and other records as may be required by 105 CMR Part 725, including but not limited to Parts 725.105(A) and 725.105(I). The Board or its agents may require the licensee to create written operating procedures and to maintain documentation in addition to and beyond the requirements of 105 CMR Part 725. The Board may condition a new or renewed license on the maintenance of any additional written operating procedures or documentation that it may deem necessary or advisable.

**14. Severability**

**2014-04-02 DRAFT**

The provisions of these regulations are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining provisions shall not be affected.

### **15. Sanctions**

The licensee's violation of these regulations or 105 CMR Part 725, and the existence of any condition set forth in 105 CMR Part 725.405 as establishing sufficient grounds for adverse action by DPH against an RMD, shall be good cause for and may result in the Board's sanction of a license to the extent permitted by law, including, but not limited to, the imposition of additional conditions on a license, a reduction or modification of the licensee's approved hours of operations, or a suspension, non-renewal, revocation, forfeiture, or cancellation of a license. No sanction shall be made except after notice and opportunity for hearing. In determining the appropriate sanction, the Board shall consider all factors it deems relevant, which may include, but are not limited to: the past history of findings of violation(s); the severity of the offense and egregiousness of the facts alleged; the culpability of the licensee and/or its manager(s), employee(s) and agent(s) (including the extent to which it had established and followed procedures to prevent such violations); the extent of any threat to public safety and to the public good; any steps by the licensee to remedy the violation and to prevent any reoccurrence; and any other additional factors deemed relevant by the Board.

In addition, a violation of these regulations may be subject to non-criminal disposition under Article 10.3 of the Town's By-Laws. After providing the licensee with a hearing or reasonable opportunity therefor and the opportunity to cure the violation, the Police Department is authorized to implement and enforce Article 10.3 without further action by the Board with respect to the following regulations:

- Section 6 ("Display of License")
- Section 7 ("Manager and Alternate Managers" (only with respect to the prohibition against conducting business without a duly-appointed and Board-approved Manager or Alternate Manager on site))
- Section 13 ("Required Documentation Available for Inspection")

The Police Department's imposition of a penalty pursuant to Article 10.3 and this Section A.35 shall not prevent or estop the Board from taking other or additional action against the licensee for the same charged violation.

2014-04-09 Draft

T O W N O F B R O O K L I N E  
M a s s a c h u s e t t s  
B O A R D O F S E L E C T M E N

SALE OF ALCOHOLIC BEVERAGES REGULATIONS



As amended by vote of the Board of Selectmen on \_\_\_\_\_, 2014

## TABLE OF CONTENTS

	<i>PAGE</i>
Policy.....	5
Section A. GENERAL — APPLIES TO ALL COMMON VICTUALLER, INNHOLDER, RETAIL PACKAGE STORE, AND CLUB LICENSES .....	6
A.1.) Applicability of Town Liquor Regulations / Nature of License .....	6
A.2.) Legislative Authority / Compliance with Laws, Regulations, By-Laws and Conditions .....	6
A.3.) Qualified Applicants.....	6
A.4.) Application for a License.....	6
A.5.) Multiple Applications and Reapplications.....	7
A.6.) Transfers in Ownership or Premises and Changes to Description of Licensed Premises .....	7
A.7.) Premises' Description.....	7
A.8.) Taxes and Charges.....	8
A.9.) Corporate and Trade Names .....	8
A.10.) Corporate Transactions and Changes in Operations .....	8
A.11.) Cessation of Operations / Permission Required.....	8
A.12.) Bankruptcy and Court Proceedings .....	9
A.13.) Foreclosure on Loans.....	9
A.14.) Access to Premises, Inspections, Required Documentation on Premises, and Requests for ..... Information by the Board and its Agents .....	9
A.15.) Display of Licenses and Permits.....	9
A.16.) Occupancy .....	9
A.17.) Hours of Operation .....	9
A.18.) Manager and Alternate Managers; Responsibilities .....	9
A.19.) Employees on Premises after Closing Hours.....	10
A.20.) Employee Roster and Employee Minimum Age for Service of Alcohol.....	10
A.21.) Employee Consumption Prohibited .....	10
A.22.) No Disorder, Disturbance, or Illegality on Licensed Premises .....	10
A.23.) Service Prohibited To Under-Aged and Intoxicated Individuals.....	10
A.24.) Identification Cards .....	10
A.25.) Required Posting.....	11
A.26.) Safe Service of Alcohol Policy.....	11
A.27.) Server Training .....	11



A.28.) Crowd Manager .....	11
A.29.) Charge for Alcoholic Beverages.....	11
A.30.) Drinking Games / Donations of Alcoholic Beverages Prohibited .....	12
A.31.) Cleanliness / Refuse Removal .....	12
A.32.) Noise.....	12
A.33.) Interior Lighting .....	12
A.34.) Discrimination Prohibited.....	12
A.35.) Sanctions.....	12
Section B. COMMON VICTUALLER AND INNHOLDER LICENSES .....	14
B.1.) Applicability of Town Liquor Regulations.....	14
B.2.) Applicability of Town Prepared Food Sales Licensing Regulations .....	14
B.3.) Qualified Applicants.....	14
B.4.) Seasonal Licenses .....	14
B.5.) Annual Financial Report.....	14
B.6.) Required Insurance .....	14
B.7.) Service and Consumption Limited To Approved Areas / Additional Outdoor Seating Requirements for Liquor Licensees .....	14
B.8.) Food Service Required/Examination of Premises .....	15
B.9.) Service of Alcoholic Beverages Limited .....	15
B.10.) Service and Consumption of Alcoholic Beverages on Premises .....	15
B.11.) Hours for Sale of Alcoholic Beverages and Operation.....	15
B.12.) Bar Seats Limited .....	16
B.13.) Tastings.....	16
B.14.) Price Schedules.....	16
B.15.) Required Posting.....	16
B.16.) Clear View of Premises' Interior.....	16
Section C. RETAIL PACKAGE STORE LICENSES .....	17
C.1.) Applicability of Town Liquor Regulations.....	17
C.2.) Qualified Applicants – Prior Convictions / Citizenship / Residency .....	17
C.3.) Limitation on Licensed Premises.....	17
C.4.) License Number Limitation .....	17
C.5.) Hours and Days of Sales.....	17
C.6.) Consumption on Premises Prohibited Except Sample Tastings .....	17
C.7.) Posting of Prices / Original Packaging .....	18
C.8.) Posting of Penalties for Operating While Drinking From Open Container .....	18
C.9.) Deliveries Off Premises.....	18

C.10.) Seating, Chairs, Stools, and Tables Prohibited .....	18
C.11.) “Nips” .....	18
Section D. CLUB LICENSES.....	19
D.1.) Applicability of Town Liquor Regulations.....	19
D.2.) Qualified Applicants.....	19
D.3.) Hours for Sale of Alcoholic Beverages and Operation.....	19
D.4.) Service and Consumption of Alcoholic Beverages On Premises .....	19
D.5.) List of Officers, Members and Employees .....	19
D.6.) Guest Register Book.....	20
D.7.) Only Members and Guests to Be Served .....	20
D.8.) Valet Parking .....	20
Section E. TEMPORARY LICENSES FOR THE SALE OF ALCOHOL AND PERMITS TO SERVE ALCOHOL ON TOWN OR SCHOOL PROPERTY .....	21
E.1.) Applicability of Town Liquor Regulations.....	21
E.2.) Section 14 Temporary Licenses to Sell Alcohol.....	21
E.3.) Section 15F Farmer-Winery Temporary Licenses.....	22
E.4.) Licenses for the Sale of Wine for Charitable Purposes and/or at Auction.....	22
a. Sales by Charities of Donated Wine to be Drunk on Premises. ....	22
b. Joint Sales by a Charity Together With a Common Victualler, Innholder, and/or Club Primarily for Charitable Purposes of Wine to be Drunk on the Premises.....	22
c. Auctions by Charities of Donated Wine to Be Drunk Off Premises. ....	22
d. Auctions by Retail Package Stores of Wine to be Drunk Off Premises. ....	23
E.5.) Alcoholic Beverages on Town Property .....	23
E.6.) Hours and Days of Sales or Delivery.....	23
E.7.) On-Site Responsible Manager / Responsible Individual .....	24
E.8.) Minimum Age for Service of Alcohol / Service to Intoxicated Persons.....	24
E.9.) Applications / Fees .....	24
E.10.) Premises Description .....	25
E.11.) Tastings.....	25
E.12.) Section 14 Temporary Licenses – Authorized Suppliers.....	25
E.13.) Compliance with By-Laws, Policies, Procedures and Guidelines Applicable to Town Property	25
E.14.) Board Discretion to Deny Application to Use Town Property .....	26
E.15.) Sanctions.....	26

### **Policy**

It is the goal of the Board of Selectmen (“Board”), as the local liquor licensing authority, to provide for a reasonable number and variety of well-run establishments for the sale and service of food and drink as will meet the public need and serve the common good. Further, it is the goal of the Board to regulate such establishments to ensure they are operated responsibly and do not detract from the quality of life in neighborhoods or in the Town as a whole. The Board expects and requires that principals and managers are of sound character and are qualified according to legal requirements and local regulations. Common victuallers and innholders must show the Board that they will operate a closely-supervised, well-managed restaurant, with the service of alcohol as a secondary service that supports the primary function of food service.

Hours of operation shall be regulated so as to protect the quality of life in neighborhoods and to discourage excessive drinking. Server training and other conditions shall be imposed to insure the responsible service of alcoholic beverages. Entertainment appropriate to a dining atmosphere or a special event may be approved.

Strong and consistent enforcement of all liquor laws and regulations shall be maintained. Regular inspections by the police shall be conducted. Violators shall be subject to possible suspension or revocation of their license. Discipline for violations may also include reducing hours or imposing other restrictive conditions.

The rules and regulations that follow have been enacted to achieve the above-stated goals.

2014-04-09 Draft

**Section A. GENERAL — APPLIES TO ALL COMMON VICTUALLER, INNHOLDER, RETAIL PACKAGE STORE, AND CLUB LICENSES**

(M.G.L. c. 138, §§ 12 and 15)

**A.1.) Applicability of Town Liquor Regulations; Nature of License / Nature of License**

All common victualler, innholder, retail package store, and club licenses to sell alcoholic beverages issued pursuant to Sections B, C, and D of these regulations are subject to and conditioned on compliance with the regulations contained in this Section A.

The term “license” is used in its technical sense of a license, transferable and revocable as provided in Chapter 138 of the Massachusetts General Laws and these regulations. The provisions in these regulations for the issue of licenses imply no intention to create rights generally for persons to engage or continue in the transaction of the business authorized by the licenses. No holder of such a license shall have any property right in any document or paper evidencing the granting of such license, and the Board, upon the expiration, suspension, revocation, cancellation or forfeiture of such a license shall be entitled upon demand to the immediate possession thereof.

(See M.G.L. c. 138, § 23.)

**A.2.) Legislative Authority / Compliance with Laws, Regulations, By-Laws and Conditions**

These regulations are adopted by the Brookline Board of Selectmen (“Board”) pursuant to the provisions of the Massachusetts General Laws (“M.G.L.”), Chapters 138 and 140. Any and all licenses issued by the Board shall be governed by, and subject to, the licensee’s compliance with all applicable federal, state and local laws, regulations and by-laws, including, but not limited to, the M.G.L., the regulations of the Alcoholic Beverages Control Commission (“ABCC,” at 204 Code of Massachusetts Regulations (“C.M.R.”)), these regulations, the Town of Brookline’s By-Laws, all applicable building, fire prevention, zoning, health and sanitary codes, and any conditions the Board imposes on specific licenses. Where there is conflict between these regulations and a condition on a license, the condition shall govern unless it is inconsistent with law. The Board reserves the right to modify and supplement these regulations and the conditions on any license after due notice and hearing.

(See M.G.L. c. 138, §§ 2, 23, 30H, 62, 64.)

**A.3.) Qualified Applicants**

No license for the sale of alcoholic beverages shall be issued to any person who is not, at the time of his or her application, a citizen of the United States, or to any agent of any such person, or to any corporation a majority of whose directors are in fact aliens. In addition, persons applying for licenses must be at least 21 years of age and of good character. An applicant for a common victualler or innholder liquor license must, in addition, be qualified pursuant to Section B.2 of these regulations. An applicant for a retail package store liquor license must, in addition, be qualified pursuant to Section C.2 of these regulations. An applicant for a club liquor license must, in addition, be qualified pursuant to Section D.2 of these regulations.

(See M.G.L. c. 138, §§ 12, 15, 26, 34.)

**A.4.) Application for a License**

All applications must contain complete and truthful information. Submission of an application containing false information shall be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Board until it is fully complete in accordance with the Town’s and the ABCC’s requirements. Filing fees must be paid prior to processing of the application by the Board. Annual license fees shall be payable immediately upon approval of the license by the Board. All filing fees and license fees shall be paid by certified check. Filing fees are non-returnable once an application has been accepted by the Board. License fees shall not be prorated and are not refundable.

No person or entity shall obtain or renew a license unless the applicant can demonstrate proof of a legal right to the licensed premises for the term of the license, such as ownership papers, tenancy documents, or a management contract.

2014-04-09 Draft

Where United States citizenship is stated as a qualification by these regulations, such citizenship shall be proven by a birth or naturalization certificate or by proof of registered voter status. The Board reserves the right to request to inspect a copy of such proof containing an original seal, in the event an applicant supplies a photocopy not containing such seal.

The Board shall consider the public need and common good in determining whether or not to grant a request for a new liquor license. In considering whether the public need and common good would be served by granting a new license, the Board may consider the number and location of existing licenses, the sort of operation proposed, the qualifications of the applicant and proposed manager, any impact on the community with respect to matters such as noise, traffic, congestion, odors, sanitary and/or nuisance conditions, waste disposal requirements and facilities, parking, dust and fumes, the impact on the character of the neighborhood and the Town, and whether any articulable harm would follow from the granting of the license. The Board may refuse to grant licenses to common victuallers, innholders and clubs in certain geographic areas of the Town where the character of the neighborhood may warrant such refusal. Prior to issuing a license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, Building Department, and Planning Department, as appropriate. The Board shall hold a hearing on an application for a new liquor license.

The Board may deny an application for renewal of a license where there is cause for doing so. Prior to issuing a renewed license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, and Building Department, as appropriate.

The applicant's failure to comply with any federal, state or local law, regulation, or by-law shall be cause for denial of the application.

(See M.G.L. c. 138, §§ 12, 15, 15A, 16A, 23, 70; 204 C.M.R. Parts 2.01(1), (7) and (8); Article 8.10.7 of the Town of Brookline By-Laws; *Ballarin v. Licensing Bd. of Boston*, 49 Mass. App. Ct. 506 (2000).)

#### **A.5.) Multiple Applications and Reapplications**

The Board will not accept more than two applications for a common victualler, innholder, club, or retail package store liquor license to be exercised on the same premises during the same license year. The Board will not accept an application by the same applicant for the same type of license to be exercised on the same premises within one year of the date of the last application unless a Board member, who previously voted against the license application, moves to allow the resubmission and such motion prevails.

(See M.G.L. c. 138, §§ 15A, 16B.)

#### **A.6.) Transfers in Ownership or Premises and Changes to Description of Licensed Premises**

No licensee may transfer to another person any license issued pursuant to these regulations, except upon application to and approval by the Board of the transfer.

The Board may approve the transfer of a license to any person or entity who would have been qualified to receive such license in the first instance, if, in the opinion of the Board, the transfer is in the public interest. A license may not be transferred to a new location and the description of the licensed premises may not be changed except with approval of the Board.

Any such transfer shall be subject to the terms and conditions of the original license, unless stipulated by the Board.

(See M.G.L. c. 138, § 23.)

#### **A.7.) Premises' Description**

No licensee shall keep for sale, store, or sell alcoholic beverages in any part of the premises not specified on the license.

No new license shall issue until an applicant has submitted to the Board and obtained the Board's approval of a description, illustration, and/or detailed plan of the premises (drawn to scale as may be necessary) describing the placement of waiting areas, tables, chairs, stools, fixed seating, booths, service counters or bars, standing only areas, entertainment areas, dance floors, kitchen facilities, bathrooms, hallways, rooms, railing partitions

2014-04-09 Draft

and other barriers, entrances and exits, and interior doors, and describing the premises' signage and any other exterior and interior decorations or features. Applicants must comply with the provisions of the Town of Brookline's Sign By-Law.

Where there are no premises actually in existence at the time of an application, the applicant shall submit with its application a detailed description as described above, describing the premises proposed to be constructed.

A licensee must apply for and obtain the Board's approval prior to making any a) structural change to the premises, b) change in Board-approved alcohol service areas, c) physical change that results in an increase in seating capacity, and d) physical change to the premises pertaining to the fixed placement of tables, chairs, stools, fixed seating, booths, service counters or bars, entertainment areas, dance floors, kitchen facilities, bathrooms, hallways, rooms, railing partitions and other barriers, entrances and exits, interior doors, and signage and any other exterior decorations or features. An application for any such physical change shall be accompanied by a description, illustration and/or detailed plan (drawn to scale as may be necessary) describing the premises with such proposed changes.

Prior to their approval by the Board, the Building Commissioner shall approve all plans contemplated by this Section A.7.

The Board may suspend, cancel or revoke a license in the event it determines that the licensee constructed or made changes to the premises in violation of this Section A.7.

(See M.G.L. c. 138, §§ 2, 12, 15A, 23, 30H; Article 5.8 of the Town of Brookline By-Laws.)

#### **A.8.) Taxes and Charges**

All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the town from any fee, charge or tax, which balance is at least six months past due.

(See M.G.L. c. 40, § 57 (adopted by the Town in November 1995); Article 4.7 of the Town of Brookline By-Laws; 1986 Mass. Acts ch. 316.)

#### **A.9.) Corporate and Trade Names**

No licensee shall assume obligations for a licensed premise or conduct business under any corporate or trade name (DBA) other than that stated on the license. Any change in corporate name or status or any change in trade name (DBA) from that the Board previously approved shall require the prior approval of the Board.

#### **A.10.) Corporate Transactions and Changes in Operations**

The licensee shall not change Manager, Alternative Manager, or corporate directors or officers; sell or transfer corporate stock, control or ownership interest in the licensed entity; pledge corporate stock, an ownership interest, the liquor license, or inventory as security; change the corporate name; accept a loan or credit from another licensee; or make any significant change in the operations (such as changes to hours of food and alcoholic beverages service, and changes to food and beverages (including alcoholic beverages) offerings), without first obtaining the approval of the Board. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Board.

(See M.G.L. c. 138, §§ 2, 15A, 23, 25, 26.)

#### **A.11.) Cessation of Operations / Permission Required**

Any licensee intending to close a place of business or cease sales of alcoholic beverages, whether on a temporary or permanent basis, must notify the Board in writing and obtain its prior permission, stating the reason for and length of such closing or inactivity. Failure to provide such notice and to obtain such permission may, after hearing or reasonable opportunity therefor, result in cancellation of the license.

(See M.G.L. c. 138, §§ 23, 77.)

2014-04-09 Draft

**A.12.) Bankruptcy and Court Proceedings**

The licensee shall immediately notify the Board in writing of any proceedings brought by or against the licensee under the bankruptcy laws and of any other court proceedings which may affect the status of the license.

**A.13.) Foreclosure on Loans**

Assignment of stock in incorporated licensed places for the purpose of safeguarding the assignee on loans gives no right to such assignee to conduct the business of the licensee; therefore, licensees must notify the Board immediately when the assignee forecloses under such assignment of stock.

**A.14.) Access to Premises, Inspections, Required Documentation on Premises, and Requests for Information by the Board and its Agents**

The Board or its agent, including the Police and other inspectional departments, may at any time enter upon the premises of the licensee to ascertain the manner in which the licensee conducts its business under such license and whether it is in compliance with the conditions of its license and all applicable federal, state, and local laws, regulations and by-laws.

Holders of common victualler, innholder and club liquor licenses under Sections B and D of these regulations shall maintain behind the bar, and holders of retail package store liquor licenses under Section C of these regulations shall maintain in the area of the cash register, a loose-leaf notebook containing an employee roster (see Section A.20) and all documentation required to be kept by such licensees pertaining to the licensee's Safe Service of Alcohol Policy, server training and Crowd Manager training (see Sections A.26, A.27, and A.28, respectively).

Licensees shall supply to the Board or its agent such information as the Board or its agent may require for purposes of the proper enforcement of these regulations. Any hindrance imposed by a licensee to an inspection, or any refusal by a licensee to supply information that is requested by the Board or its agent pursuant to this Section A.14, shall be cause for action against the license.

(See M.G.L. c. 138, §§ 12, 63, 63A.)

**A.15.) Display of Licenses and Permits**

All licenses and permits issued by the Town pursuant to these regulations shall be displayed on the premises in a conspicuous place where they can be easily read.

(See 204 C.M.R. Part 2.01(10).)

**A.16.) Occupancy**

No licensee shall vary the occupancy of the licensed premises as certified by the Building Department.

(See M.G.L. c. 138, § 12.)

**A.17.) Hours of Operation**

The hours of operation shall be restricted to those set by the Board. No patrons shall be on the premises except during the hours permitted by the licensee's liquor license, or by the licensee's common victualler, innholder, club or food vendor license, if different.

**A.18.) Manager and Alternate Managers; Responsibilities**

No corporation or other legal entity shall be approved for a license unless the entity, by vote of its board of directors, has appointed a Manager for the licensed premises whom the Board deems capable of fulfilling his or her managerial responsibilities as set forth herein and who is a United States citizen, at least 21 years of age, and of character satisfactory to the Board, and who has been vested with full authority and control of the premises and the business to be licensed as demonstrated by a copy of a vote certified by the clerk or secretary of the entity. With the approval of the Board or the Board's designee, a corporation or other legal entity may appoint Alternate Managers (who must be at least 21 years of age) to be in charge in the absence of the Manager in number sufficient to meet operational needs, however, the Manager must be on the premises the lesser of either fifty (50) percent of the time the premises are open, or forty (40) hours per week during

2014-04-09 Draft

operational hours. At no time shall the premises be open without a duly-appointed and Board-approved Manager or Alternate Manager in charge; however, in the event of an emergency, the Manager or Alternative Manager on site who needs to leave the premises shall designate another employee who is qualified under Section A.27 below to act as the temporary manager on duty. A written record shall be kept which identifies the manager on duty for each shift.

The Manager shall have total responsibility for the proper operation of the licensed premises and shall maintain order and decorum within the premises, whether present or not, and shall cooperate in all ways with Town Officials in ensuring safe and orderly facilities. The Manager shall not permit any illegality, disorder, indecency, prostitution, lewdness or illegal gambling in or on the premises. No appointment of a Manager or Alternate Manager shall be effective unless and until approved by the Board.

The Board shall not approve a Manager or Alternate Manager who is not qualified for such position pursuant to this section and Section A.27 below.

(See M.G.L. c. 138, § 26; 204 C.M.R. Part 2.01(6).)

**A.19.) Employees on Premises after Closing Hours**

A licensee or manager shall not be prohibited from being on the licensed premises at any time. Employees, contractors, and subcontractors of the licensee shall not be prohibited from being on the licensed premises for the purpose of cleaning, making emergency repairs, providing security for such premises, or preparing food for the next day's business or opening or closing the business in an orderly manner.

(See M.G.L. c. 138, § 12.)

**A.20.) Employee Roster and Employee Minimum Age for Service of Alcohol**

An up-to-date list of all employees, including their ages, shall be available on the premises at all times for review by the Board and its authorized agents. A licensee may not permit an employee under the age of 18 years old to handle, sell, mix or serve alcohol.

(See M.G.L. c. 138, § 34.)

**A.21.) Employee Consumption Prohibited**

No Manager, Alternate Manager or employee of the licensee shall consume any alcoholic beverages while on duty at the licensed premises, with the exception of minor alcoholic consumption for staff training and product selection purposes under the supervision of the manager on duty.

**A.22.) No Disorder, Disturbance, or Illegality on Licensed Premises**

No licensee shall permit any disorder, disturbance, or illegality of any kind on the licensed premises.

(See 204 C.M.R. Part 2.05(2).)

**A.23.) Service Prohibited To Under-Aged and Intoxicated Individuals**

No alcoholic beverages shall be sold to anyone who is under twenty-one (21) years of age or intoxicated.

(See M.G.L. c. 138, §§ 34, 69; 204 C.M.R. Part 2.05(2).)

**A.24.) Identification Cards**

Any licensee who reasonably relies on the following forms of identification for proof of age shall not thereby subject the license to modification, suspension, revocation or cancellation: a) a valid Massachusetts motor vehicle driver's license with photograph, b) a valid Massachusetts Liquor Purchase Identification Card, c) a valid Massachusetts identification card issued by the Massachusetts Registry of Motor Vehicles pursuant to M.G.L. c. 90, §, 8E, d) a valid passport or passport card issued by the United States government, or a valid passport issued by the government of a foreign country recognized by the United States government, or e) a valid United States-issued military identification card. Additionally, a licensee who sells alcohol to an under-aged person may be subject to sanction against the license in the event the licensee relied on proof of age other than one of the forms of identification enumerated in this Section.



2014-04-09 Draft

(See M.G.L. c. 138, § 34B; 204 C.M.R. Part 2.10.)

**A.25.) Required Posting**

All licensees shall post conspicuously a copy of the explanation of the prohibition, and penalties for violation of the prohibition, applicable to persons under the age of 21 years for purchasing or attempting to purchase alcohol, misrepresentation of one's age, and altering, defacing or falsifying identification with the intent to purchase alcohol, in the form that such posting is distributed by the Alcoholic Beverages Control Commission.

(See M.G.L. c. 138, § 34A.)

**A.26.) Safe Service of Alcohol Policy**

The licensee shall establish and maintain a written policy applicable to the Manager, any Alternate Manager(s) and all employees stating the licensee's prohibition on the sale or service of alcohol to any person who is under 21 years of age or who shows signs of intoxication, the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated, and the disciplinary measures that will be taken for violating such policy. The licensee shall provide such written policy to all managerial personnel and employees. Each Manager, Alternate Manager and employee shall sign a certification acknowledging the person's receipt, review, and understanding of the written policy and of the disciplinary action that will be taken against him or her for a violation, which certifications shall be maintained on the licensed premises at all times. A copy of the written policy and of all such certifications shall be available to the Board and its authorized agents upon demand.

**A.27.) Server Training**

The Manager, any Alternate Manager(s), bartenders, and all employees selling or serving alcohol must participate in a safe-service-of-alcohol training program designed for the specific type of liquor license held by the licensee (*e.g.*, for on-premises consumption versus for retail package store sales) to train persons serving or selling alcohol in methods of observation and detection to avoid serving or selling alcohol to intoxicated persons and/or minors. Only insurance industry-approved and qualified training programs will satisfy this training requirement. All Managers and Alternate Managers must receive in-person training in order to be employed as a Manager or Alternate Manager. Non-Managerial employees selling or serving alcohol must be trained within fourteen (14) days of employment by the licensee, and may satisfy this training requirement through on-line training. All persons subject to this training requirement must be retrained every three years in the manner specified by this Section for that position. The licensee shall maintain on the licensed premises and make available for inspection at all times a copy of the certification card and other proof showing that each person subject to this training requirement has been trained in the manner specified by this Section within the prior three (3) years.

**A.28.) Crowd Manager**

Notwithstanding any limitations on applicability otherwise described in the State Board of Fire Prevention regulations, 527 C.M.R. 10.13(2)(d)(1), (2) and (3), any licensee that has a bar on the licensed premises shall designate one or more persons as a Crowd Manager, at least one of whom shall be present during the operational hours of the restaurant. The designated Crowd Manager(s) shall be trained in accordance with 527 C.M.R. 10.13(2)(d)(5) and perform the duties and have the qualifications and responsibilities described in 527 C.M.R. 10.13(2)(d) and (e), including, but not limited to, maintaining clear paths of egress, assuring that the facility does not exceed its occupant load limit, initiating a fire alarm if necessary, directing occupants to exits, and assuring general fire and life safety awareness of employees and occupants, including assuring that exit announcements are made in accordance with law. To the extent the requirements of 527 C.M.R. 10 may exceed this regulation, the provisions of 527 C.M.R. shall pertain.

**A.29.) Charge for Alcoholic Beverages**

Except as may be permitted by Sections B(13) ("Tastings") and C(6) ("Consumption on Premises Prohibited Except Sample Tastings"). No alcoholic beverages shall be delivered without charge or sold for a fee less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage. The price charged for alcoholic beverages shall not be discounted for any particular hour(s) of the day or day(s) of the week. No minimum charge shall be made for alcoholic beverages.

2014-04-09 Draft

(See 204 C.M.R. Parts 2.04, 4.03.)

**A.30.) Drinking Games / Donations of Alcoholic Beverages Prohibited**

No licensee shall encourage or permit on the licensed premises any game or contest which involves drinking or the awarding of drinks as prizes.

Donations of alcoholic beverages by licensees for the purpose of having the same used as prizes in a game of chance are prohibited. Notwithstanding the foregoing, this Section A.29 does not prohibit donations of alcoholic beverages to the extent permitted by Section E.4(a)-(c) below.

(See 204 CMR Parts 2.04(2), 4.03(h); 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, and 2007 Mass. Acts ch. 229.)

**A.31.) Cleanliness / Refuse Removal**

All licensed premises shall be maintained in a clean and sanitary condition.

(See 204 C.M.R. Part 2.05(8); Article 8.8 of the Town of Brookline By-Laws.)

**A.32.) Noise**

All licensees shall comply with all provisions of the Town of Brookline's Noise By-Law, including, but not limited to, with respect to entertainment, outdoor seating areas, exterior fans, vents and equipment, and delivery and loading areas and activity.

(See Article 8.15 of the Town of Brookline By-Laws.)

**A.33.) Interior Lighting**

All licensees shall keep the licensed premises lighted in a manner sufficient for the safety of the patrons and in a manner sufficient for the Board or its agents to make observations at the premises without the need to identify themselves or seek assistance.

(See 204 C.M.R. Part 2.05(10).)

**A.34.) Discrimination Prohibited**

No licensee shall engage in unlawful discrimination on the basis of race, color, national origin, creed, disability, sex, sexual orientation, or ancestry.

(See M.G.L. c. 272, §§ 92A, 98; 204 C.M.R. Part 10.01.)

**A.35.) Sanctions**

In the event that the Board finds, after hearing or reasonable opportunity therefor, that a licensee has failed to comply with any federal, state or local law, regulation or by-law, or with any condition imposed on the license, the Board shall take such action as it deems appropriate and as conforms with applicable law, including, but not limited to, the imposition of additional conditions on the license and/or on any of the licensee's other licenses (such as a common victualler or entertainment license), a reduction in liquor sale hours (subject to any applicable legal restrictions, and after a hearing conducted with two (2) weeks' notice to the licensee), a modification of any license, a suspension of any license of from one (1) to ninety (90) days, a non-renewal of any license (which non-renewal shall not take effect until any period for appeal to the ABCC has expired or an appeal to the ABCC has been filed), or revocation, forfeiture, or cancellation of any license.

In determining the appropriate sanction to be imposed on the licensee, the Board shall consider all factors it deems relevant, which may include, but are not limited to: the past history of findings of violation(s); the severity of the offense and egregiousness of the facts alleged; the culpability of the licensee and/or its manager(s), employee(s) and agent(s) (including the extent to which it had established and followed procedures to prevent such violations); the extent of any threat to public safety and to the public good; any steps by the licensee to remedy the violation and to prevent any reoccurrence; and any other additional factors deemed relevant by the Board.

2014-04-09 Draft

In addition to the foregoing, where the Board finds that a common victualler, innholder or club liquor licensee sold alcohol to an under-aged or intoxicated person, the Board may, in its discretion, require as a condition precedent to any modification, reinstatement, or renewal of such license that the licensee provide a certificate of insurance for liquor liability providing security for the liability of the licensee to a limit of not less than \$100,000 to any one person and \$200,000 to all persons, which may be increased at the discretion of the Board; provided that if the licensee is required to obtain insurance under M.G.L. c. 138, § 12, the Board may increase the limits set by Section 12 (*see* Section B.5).

Upon the Board's suspension, revocation, cancellation, forfeiture, or refusal to renew a license, the holder shall physically surrender the license to the Office of the Board at a date and time determined by the Board.

The initiation and prosecution of a criminal enforcement action under Mass. Gen. Laws ch. 138 or any other law shall not prevent or estop the Board from taking other or additional action against the licensee for the same charged violation.

In addition, a violation of these regulations may be subject to non-criminal disposition under Article 10.3 of the Town's By-Laws. After providing the licensee with a hearing or reasonable opportunity therefor and the opportunity to cure the violation, the Police Department is authorized to implement and enforce Article 10.3 without further action by the Board with respect to the following regulations:

- A.14 ("Access to Premises, Inspections, Required Documentation on Premises, and Requests for Information by the Board and its Agents")
- A.15 ("Display of Licenses and Permits")
- A.18 ("Manager and Alternate Managers; Responsibilities" (only with respect to the prohibition against conducting business without a duly-appointed and Board-approved Manager or Alternate Manager on site))
- A.20 ("Employee Roster and Employee Minimum Age for Service of Alcohol")
- A.25 ("Required Posting")
- A.26 ("Safe Service of Alcohol Policy")
- A.27 ("Server Training")

The Police Department's imposition of a penalty pursuant to Article 10.3 and this Section A.35 shall not prevent or estop the Board from taking other or additional action against the licensee for the same charged violation.

(*See* M.G.L. c. 138, §§ 2, 12, 16A, 23, 30H, 64, 64A, 65; 204 C.M.R. Parts 2.01(8), 7.06, Art. 10.3 of the Town of Brookline By-Laws.)

**Section B. COMMON VICTUALLER AND INNHOLDER LICENSES**  
**(M.G.L. c. 138, § 12)**

**B.1.) Applicability of Town Liquor Regulations**

All licenses issued by the Board under this Section B are subject to and conditioned on compliance with the regulations contained in this Section B and in Section A.

**B.2.) Applicability of Town Prepared Food Sales Licensing Regulations**

All licenses issued by the Board under this Section B are subject to and conditioned on compliance with the Town's Prepared Food Sales Regulations.

**B.3.) Qualified Applicants**

No license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotics law. No license shall be issued to any applicant who is not qualified to receive one pursuant to Section A.3 of these regulations.

(See G.L. c. 138, § 12.)

**B.4.) Seasonal Licenses**

In addition to, and irrespective of, any limitation of the number of licenses contained in M.G.L. c. 138, § 17, in lieu of an annual license, the Board may grant an applicant a seasonal license to be effective from April 1 to January 15 of the following year, or any portion thereof.

(See M.G.L. c. 138, § 17.)

**B.5.) Annual Financial Report**

Upon request, a licensee shall furnish to the Board an annual financial status report from a certified public accountant, for one or more years as the Board shall specify, indicating the gross sales for food and gross sales for alcoholic beverages.

**B.6.) Required Insurance**

No license shall be issued or renewed until the applicant provides proof of coverage, under a liquor legal liability insurance policy for bodily injury or death, for a minimum amount of \$250,000 on account of injury to or death of one person, and \$500,000 on account of any one accident resulting in injury to or death of more than one person. Proof shall be made by filing a certificate of insurance in a form acceptable to the Board.

(See M.G.L. c. 138, § 12.)

**B.7.) Service and Consumption Limited To Approved Areas / Additional Outdoor Seating Requirements for Liquor Licensees**

The service and consumption of alcoholic beverages shall be limited to those dining rooms, patios, sidewalks or other public areas pertaining to the premises that are approved by the Board.

In addition to the outdoor seating requirements stated in the Town's Prepared Food Sales Regulations, any liquor licensee applying for approval of outdoor seating must demonstrate sufficient control of the area to prevent service or delivery of alcoholic beverages to under-aged or intoxicated persons and other violations. Outdoor seating areas must be enclosed by a fence, rope or other means to prevent patrons or members of the public from wandering in or out. The licensee should have a view of the outside premises from inside the premises. Egress from the inside to the outside must be clearly established to assure safe, uninterrupted service of alcoholic beverages. No alcoholic beverages shall be served or consumed in any areas of the premises that are not included in the approved description of the licensed premises.

(See M.G.L. c. 138, § 12; ABCC's "Guidelines for Extension of Premises to Patio and Outdoor Areas;" Article 8.10.8 of the Town of Brookline By-Laws.)

2014-04-09 Draft

**B.8.) Food Service Required/Examination of Premises**

Licenses issued under this Section B may be issued only to duly-licensed common victuallers and innholders that have adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons, as required by Chapter 140 of the Massachusetts General Laws. All establishments must also obtain applicable permits from the Health Department. The Board shall not grant any license under this Section B until after it or its authorized agent has conducted an examination of the premises and determined that the business satisfies the requirements for a restaurant or innholder. No license shall be renewed unless the licensee has satisfied the Board that it is in good faith operating a restaurant and has the proper equipment for the service of food.

Food service shall be available and offered in all areas and seats where alcoholic beverages are served except in an approved waiting area. Alcoholic beverages may be served to individuals in approved waiting areas.

The manager on duty shall bear ultimate responsibility for the strict enforcement of food and beverage service regulations, including, without limitation, assuring that no patron is over-served alcohol and that no alcohol is served to or consumed by underage persons.

For the purposes of these regulations, the term “food service” shall mean the preparing, sale, service, dispensing, distribution, and/or delivery of “food.” “Food” shall include meals, hors d’oeuvres, sandwiches, soups, prepared foods, and salads, and shall exclude chips, nuts, pretzels, popcorn, candy, and other snack-like foods or packaged foods that require no preparation for consumption.

(See M.G.L. c. 138, §§ 12, 12A.)

**B.9.) Service of Alcoholic Beverages Limited**

No licensee may offer to sell or deliver alcoholic beverages by the pitcher or carafe, with the exception of pitchers or carafes of malt or wine beverages served to two or more persons at one time. With the exception of malt and wine beverages, no alcoholic beverages shall be served in any container or glass the capacity of which is in excess of sixteen fluid ounces. No more than one alcoholic beverage drink shall be served to a patron at one time for his or her own consumption.

(See 204 C.M.R. Part 4.04.)

**B.10.) Service and Consumption of Alcoholic Beverages on Premises**

All alcoholic beverages shall be served directly to the patron in open containers by employees of the licensed establishment who are qualified pursuant to Section A.27. No alcoholic beverages may be served over a counter except a counter with seating at which food service is also available. No alcoholic beverages served on the licensed premises shall be allowed to be removed from the premises, except as permitted by 204 C.M.R. Part 2.18. No patron shall be allowed to bring alcoholic beverages on the licensed premises for the purpose of consumption on such licensed premises.

**B.11.) Hours for Sale of Alcoholic Beverages and Operation**

The Board shall establish the hours during which a licensee may sell and serve alcoholic beverages based on the public need and the common good consistent with the law. In no event shall licensees sell or serve alcoholic beverages earlier than 10 a.m. and later than 2 a.m. A licensee may petition the Board to sell and serve alcoholic beverages earlier than 10 a.m. on days other than Sunday, except that in no event shall a licensee sell or serve alcoholic beverages earlier than 8 a.m. The hours for the sale and service of alcoholic beverages shall be further restricted to the hours during which food service (as defined in Section B.7) is available, with the exception of the last hour before the closing hour that is stated on the liquor license.

“Last call” (a final opportunity to purchase alcoholic beverages) shall be at least one-half hour prior to the closing hour.

No alcohol shall be consumed on the premises after the closing hour stated on the license. No patrons shall be on the premises more than fifteen (15) minutes after the stated closing hour. All tables and bars must be cleared of all glasses, bottles and containers containing alcoholic beverages within one-half hour after the closing hour.

2014-04-09 Draft

The Board shall not decrease a licensee's hours until after a public hearing or opportunity therefor.

Consistent with law, in no event shall the Board restrict a licensee from selling alcohol between the hours of 11 a.m. and 11 p.m. on secular days, and 12 p.m. and 11 p.m. on Sundays.

(See M.G.L. c. 138, §§ 12, 33, 33A.)

#### **B.12.) Bar Seats Limited**

With respect to applications for a new liquor license or for a change to the premises, the ratio of bar seats to table seats is subject to the review and approval of the Board. In connection with such applications, the Building Commissioner shall bring to the Board's attention a proposal, description, illustration, and/or detailed plan of a premises submitted pursuant to Section A.7 that evidences a ratio of more than 1 bar seat per 10 table seats.

#### **B.13.) Tastings**

A licensee may provide on premises tastings of sample wine (up to 1 oz. serving), malt (up to 2 oz. serving), or (in the case of holders of an All Kinds license) other alcohol (up to ¼ oz. serving) if served with food and the licensee does not solicit orders for off-premises consumption.

(See M.G.L. c. 138, § 12.)

#### **B.14.) Price Schedules**

Licensees shall maintain a price schedule showing charges for all drinks and shall make sales at the prices stated.

(See 204 C.M.R. Parts 2.02(1), 4.02.)

#### **B.15.) Required Posting**

All licensees shall post conspicuously a copy of the penalties set forth in M.G.L. c. 90, § 24(1) for operating a motor vehicle under the influence of alcohol in the form that such posting is distributed by the Alcoholic Beverages Control Commission.

(See M.G.L. c. 138, § 34D.)

#### **B.16.) Clear View of Premises' Interior**

No advertising matter, screen, curtain, or other obstruction which, in the opinion of the Board, prevents a clear view of the interior of the licensed premises from outside the premises shall be maintained in or on any window or door thereof after the Board has ordered the removal of such obstruction and has afforded the licensee a reasonable opportunity to comply.

(See M.G.L. c. 138, § 1 (re: "restaurant").)

**Section C. RETAIL PACKAGE STORE LICENSES**

(M.G.L. c. 138, § 15)

**C.1.) Applicability of Town Liquor Regulations**

All licenses issued by the Board under this Section C are subject to and conditioned on compliance with the regulations contained in this Section C and in Section A.

**C.2.) Qualified Applicants – Prior Convictions / Citizenship / Residency**

The Board shall not grant any license under this Section C to an applicant who has been convicted of a felony. In addition to the qualification requirements set forth in Section A.3 of these regulations, an applicant for a retail package store license under this Section C must be a resident of Massachusetts, or a partnership composed solely of citizens and residents, or a corporation organized under Massachusetts laws of which all directors are citizens and a majority are residents of Massachusetts, or a limited liability company organized under Massachusetts law.

(See M.G.L. c. 138, § 15.)

**C.3.) Limitation on Licensed Premises**

No premises licensed under this Section C shall include or be connected with premises that are licensed as a common victualler, innholder, or club to sell alcoholic beverages.

(See M.G.L. c. 138, § 15.)

**C.4.) License Number Limitation**

No person, firm, corporation, association, or other combination of persons, directly or indirectly, shall be granted more than one (1) retail package store license in Brookline. No such person or entity shall be granted more than five (5) retail package store licenses in Massachusetts.

(See M.G.L. c. 138, § 15.)

**C.5.) Hours and Days of Sales**

The Board shall set a licensee's opening and closing hours based on the public need and the common good consistent with the law. In no event shall the Board set an opening hour earlier than 12 p.m. on Sundays and 8 a.m. on all other days. In no event shall the Board set a closing hour later than 11 p.m. except on days preceding a legal holiday, when the closing hour shall be no later than 11:30 p.m. Sales are not permitted on the last Monday in May, on Thanksgiving Day, on Christmas Day, and on the day following Christmas when Christmas is on a Sunday. A retail package store licensee shall not be required to sell alcoholic beverages on Sundays and legal holidays. If a licensee is permitted to sell alcoholic beverages on Sundays, it shall also be permitted to cease the conduct of business on one other day of the week. Unless otherwise specified in a license, licensees may sell and deliver alcohol during polling hours on any day on which a state or municipal election is held in the Town.

(See M.G.L. c. 138, §§ 15, 33; G.L. c. 136, §§ 5 and 6(52).)

**C.6.) Consumption on Premises Prohibited Except Sample Tastings**

No alcoholic beverages shall be sold to be drunk on the premises, except that licensees may provide without charge on their premises sample wine or malt beverage tasting of products available for sale on their premises. Each "taste" shall be limited to 1 ounce of wine or 2 ounces of malt beverage, and, if licensed for tastings of cordials and liqueurs and other alcoholic beverages, ¼ ounce of such other beverage.

(See M.G.L. c. 138, § 15.)

2014-04-09 Draft

**C.7.) Posting of Prices / Original Packaging**

Every licensee shall conspicuously post in each room where alcoholic beverages are sold a price list of such beverages. All prices that can be seen by customers in the licensee's store, whether on shelves, in circular form or otherwise, must correspond with the price charged to customers. Sales by licensees shall be made only in the original package of the manufacturer, wholesaler or importer.

(See M.G.L. c. 138, § 15.)

**C.8.) Posting of Penalties for Operating While Drinking From Open Container**

Every licensee shall post conspicuously a copy of the penalties set forth in Massachusetts General Laws Chapter 90, Section 24(I), for operating a motor vehicle while drinking from an open container in the form that such posting is distributed by the Alcoholic Beverages Control Commission.

(See M.G.L. c. 138, § 34D.)

**C.9.) Deliveries Off Premises**

A written record shall be maintained listing the name and address of every person to whom a delivery of alcoholic beverages is made outside of the premises. Such record shall include the amount of alcoholic beverages that were delivered, the date and time of delivery, and the signature of the person receiving the delivery. Such records shall be maintained for a period of not less than one year and must be available for inspection by the Board and its authorized agents at all times. All deliveries shall be made in vehicles permitted by the Alcoholic Beverages Control Commission and by persons at least 21 years of age who have received training and certification as required by Section A.27 above. The person in charge of such vehicle used for delivery shall carry an invoice or sales slip stating the name(s) and address(es) of the purchaser(s), the date and amount of the purchase, and an itemization of the number of containers of each kind, the quantities, and the brands of the alcoholic beverages purchased. Verification pursuant to Section A.24 above that the person receiving the delivery is at least 21 years of age must be made prior to delivery.

(See M.G.L. c. 138, § 22; 204 CMR 2.05(3).)

**C.10.) Seating, Chairs, Stools, and Tables Prohibited**

No seating, chairs, stools, or tables for use by customers or patrons shall be placed or permitted by a retail package store licensee upon or within the licensed premises, or upon any area under the direction and control of the licensee, except as permitted by the Board.

**C.11.) "Nips"**

Licensees shall not offer for sale "nips" (defined as a bottle of spirits containing fewer than eight (8) fluid ounces) from a location within the premises that may be accessed directly by customers. "Nips" may be offered for sale only upon the request of a customer from a location within the premises to which customers do not have direct access, such as from behind a counter.



**Section D. CLUB LICENSES**

(M.G.L. c. 138, § 15)

**D.1.) Applicability of Town Liquor Regulations**

All licenses issued by the Board under this Section D are subject to and conditioned on compliance with the regulations contained in this Section D and in Section A, and, in addition, with the following regulations contained in Section B ("Common Victuallers and Innholders"):

- B.3 ("Qualified Applicants")
- B.4 ("Seasonal Licenses")
- B.6 ("Required Insurance")
- B.7 ("Service and Consumption Limited to Approved Areas / Additional Outdoor Seating Requirements for Liquor Licensees")
- B.9 ("Service of Alcoholic Beverages Limited")
- B.14 ("Price Schedules")
- B.15 ("Required Posting")
- B.17 ("Clear View of Premises' Interior").

**D.2.) Qualified Applicants**

No license shall issue to any applicant who has been convicted of a violation of a federal or state narcotics law. No license shall issue to any applicant who is not qualified to receive one pursuant to Section A.3 of these regulations.

(See M.G.L. c. 138, § 12.)

**D.3.) Hours for Sale of Alcoholic Beverages and Operation**

The Board shall set a licensee's opening and closing hours based on the public need and the common good consistent with the law. In no event shall the Board set an opening hour earlier than 10 a.m. on Sundays and 8 a.m. on all other days and a closing hour later than 2 a.m.

"Last call" (a final opportunity to purchase alcoholic beverages) shall be at least one-half hour prior to the closing hour. All patrons must be off the premises by the closing hour. All tables and bars must be cleared of all glasses, bottles and containers containing alcoholic beverages within one-half hour after the closing hour.

The Board shall not decrease a licensee's hours until after a public hearing or opportunity therefore.

Consistent with law, in no event shall the Board restrict a licensee from selling alcohol between the hours of 11 a.m. and 11 p.m. on secular days and 12 p.m. and 11 p.m. on Sundays.

(See M.G.L. c. 138, §§ 12, 33, 33A.)

**D.4.) Service and Consumption of Alcoholic Beverages On Premises**

All alcoholic beverages shall be served in open containers by wait or bartender staff of the licensed establishment directly to the patron. No alcoholic beverages served on the premises shall be allowed to be removed from the premises, except as permitted by 204 C.M.R. Part 2.18. No patron shall be allowed to bring alcoholic beverages on the licensed premises for the purpose of consumption on such licensed premises.

**D.5.) List of Officers, Members and Employees**

Annually, the licensee shall submit to the Board, within three months after January first, a listing of the names and residences of all the club's directors or officers, members, and employees as of January first. The amount of salary or other compensation received by each employee serving or handling alcoholic beverages shall be included. Such list shall be maintained current during the year and be available for inspection on the premises at all times.

(See M.G.L. c. 138, § 1 (re: "clubs").)

**2014-04-09 Draft**

**D.6.) Guest Register Book**

A guest register book shall be maintained which indicates the name of the guest and the member accompanying the guest. No guest shall be allowed to enter the premises unless he or she is invited and accompanied by a member and signs the guest register. Such guest register shall be available for inspection at all times.

**D.7.) Only Members and Guests to Be Served**

Only members and their properly-registered guests shall be served alcoholic beverages.

**D.8.) Valet Parking**

Unless a licensee wishes to operate a valet service exclusively on private property, licensees are required to obtain a Valet Permit from the Transportation Board in order to offer any valet service that utilizes the public way.

(See Article V, Section VII of the Brookline Transportation Board Rules and Regulations.)

**Section E. TEMPORARY LICENSES FOR THE SALE OF ALCOHOL  
AND PERMITS TO SERVE ALCOHOL ON TOWN OR SCHOOL PROPERTY**

**E.1.) Applicability of Town Liquor Regulations**

Unless otherwise specified, all licenses and permits issued by the Board under this Section E are subject to and conditioned on compliance with the regulations contained in this Section E, and, in addition, with the following regulations contained in Section A (“General”) and Section B (“Common Victualler and Innholder Licenses”):

- A.2 (“Legislative Authority / Compliance with Laws, Regulations, By-Laws and Conditions”),
- A.3 (“Qualified Applicants”) (except that U.S. citizenship requirements are applicable to applicants for Section 14 temporary licenses and farmer-winery licenses only),
- A.14 (“Access to Premises, Inspections, Required Documentation on Premises, and Requests for Information By the Board and its Agents”),
- A.15 (“Display of Licenses and Permits”),
- A.16 (“Occupancy”),
- A.21 (“Employee Consumption Prohibited”),
- A.22 (“No Disorder, Disturbance, or Illegality on Licensed Premises”),
- A.23 (“Service Prohibited to Under-Aged and Intoxicated Individuals”),
- A.24 (“Identification Cards”),
- A.28 (“Crowd Manager”),
- A.29 (“Charge for Alcoholic Beverages”),
- A.33 (“Interior Lighting”),
- A.34 (“Discrimination Prohibited”), and
- B.9 (“Service of Alcoholic Beverages Limited”).

**E.2.) Section 14 Temporary Licenses to Sell Alcohol**

Pursuant to M.G.L. c. 138, § 14, the Board may grant a temporary license a) to the responsible manager (a natural person) of any non-profit organization conducting any indoor or outdoor activity or enterprise, for the sale of all alcoholic beverages or of wine and malt beverages only, or either of them, b) to the responsible manager (a natural person) of any indoor or outdoor activity or enterprise, for the sale of wine and malt beverages only, or either of them, or c) for the sale of wine and malt beverages in the dining halls maintained by incorporated educational institutions authorized to grant degrees (hereinafter, licenses issued pursuant to this Section E.2 are referred to as “Section 14 temporary licenses”).

A Section 14 temporary license may not be granted to a person who has a pending application for a liquor license as a common victualler, innholder, or club under Section B or D, or for any premises that already has a liquor license under Section B or D in effect for the time period for which the Section 14 temporary license is sought.

Other than with respect to dining halls maintained by incorporated educational institutions authorized to grant degrees, no Section 14 temporary license shall permit sales on more than 30 days, nor may any person or organization be granted Section 14 temporary licenses permitting sales on an aggregate of more than 30 days in any calendar year. However, Section 14 temporary licenses permitting sales at the municipal golf course may permit sales on an aggregate of not more than 245 days in any calendar year.

The Board shall fix and shall specify on the license the hours during which a Section 14 temporary licensee may sell or furnish alcohol, but in no event shall a Section 14 temporary licensee sell or deliver alcoholic beverages between the hours of 2 a.m. and 10 a.m.

(See M.G.L. c. 138, §§ 14, 26; 204 C.M.R. Parts 7.02, 7.03, 7.04.)

**E.3.) Section 15F Farmer-Winery Temporary Licenses**

Pursuant to M.G.L. c. 138, § 15F, the Board may issue to an applicant authorized to operate a farmer-winery under M.G.L. c. 138, § 19B, or in any other state, a temporary license for the sale of wine produced by or for the licensee in sealed containers for off-premises consumption at an indoor or outdoor agricultural event (“farmer-winery license”). A farmer-winery license may be granted for an indoor or outdoor agricultural event that takes place on multiple dates and/or times during a single calendar year, but no such license shall be granted for an agricultural event that will not take place within 1 calendar year. Such licenses shall be non-transferable and shall clearly be marked non-transferable on the face. The fee for such licenses shall not exceed \$50.

(See M.G.L. c. 138, § 15F.)

**E.4.) Licenses for the Sale of Wine for Charitable Purposes and/or at Auction**

To the extent as may be permitted by 1997 Mass. Acts ch. 153 as amended, the Board may issue the following temporary licenses for the sale of alcoholic beverages, with the approval of the ABCC:

**a. Sales by Charities of Donated Wine to be Drunk on Premises.** For the sale of wine to be drunk on the premises, to applicants which are nonprofit charitable corporations organized under chapter 180 of the Massachusetts General laws and registered with the public charities division of the office of the attorney general. Any wine sold under this Section E.4(a) shall be donated at no charge to the licensee, and all proceeds shall be used for the licensee’s charitable purposes. Any wine so donated may be dispensed by the employees or agents of the donor(s) of the wine, without compensation for the dispensing services provided. The licensed premises must be either the principal place of business or headquarters of the applicant which is legally zoned to allow such sales, or the premises of a common victualler, innholder or club liquor licensee licensed pursuant to Sections B or D above. No such temporary license shall be for a duration of more than 10 consecutive calendar days and no holder shall be granted more than 2 such licenses in a calendar year. The fee charged shall not exceed the minimum fee established for holders of licenses to sell wine. The hours shall be as set by the Board, but in any event shall be limited to those permitted by Section B.7. (See Section 3 of 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, 2007 Mass. Acts ch. 229, 2012 Mass. Acts ch. 405 (with sunset provision).)

**b. Joint Sales by a Charity Together With a Common Victualler, Innholder, and/or Club Primarily for Charitable Purposes of Wine to be Drunk on the Premises.** For the sale of wine to be drunk on the premises, to joint applicants which consist of one or more nonprofit charitable corporations organized under chapter 180 of the Massachusetts General Laws and registered with the public charities division of the office of the attorney general together with a common victualler, innholder or club liquor licensee licensed pursuant to Section B or D above. Any wine sold under this section E.4(b) may be donated at no charge to the licensee. A majority of the proceeds from such sales shall be used for the nonprofit charitable corporation licensee’s charitable purposes. Any wine sold under this Section E.4(b) may be dispensed by the employees or agents of the donor of the wine, without compensation for the dispensing services provided. The licensed premises must be the premises of the joint applicant that is a common victualler, innholder or club liquor licensee. No such temporary license shall be for a duration of more than 10 consecutive calendar days and no holder shall be granted more than 20 such licenses in a calendar year. The fee charged shall not exceed the minimum fee established for holders of licenses to sell wine. The hours shall be as set by the Board, but in any event shall be limited to those permitted by Section B.7. (See Section 4 of 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, 2007 Mass. Acts ch. 229, 2012 Mass. Acts ch. 405 (with sunset provision).)

**c. Auctions by Charities of Donated Wine to Be Drunk Off Premises.** For the sale at auction of wine not to be drunk on the premises, to applicants which are nonprofit charitable organizations organized under chapter 180 of the Massachusetts General Laws and registered with the public charities division of the office of the attorney general. Any wine sold under this Section E.4(c) shall be donated at no charge to the licensee and all proceeds shall be used for the licensee’s charitable purposes. The licensed premises must be either the principal place of business or headquarters of the applicant that is legally zoned to allow such sales or a location

owned or leased by the applicant from which the applicant regularly conducts business that is legally zoned to allow such sales, or the premises of a common victualler, innholder, club or retail package store liquor licensee licensed pursuant to Sections B, C or D above. No such temporary license shall be for a duration of more than 10 consecutive calendar days and no holder shall be granted more than 5 such licenses in a calendar year. The fee charged shall not exceed the minimum fee established for holders of licenses to sell wine. The hours shall be as set by the Board but in any event shall be limited to those permitted by Section B.7. (See Section 1 of 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, 2007 Mass. Acts ch. 229, 2012 Mass. Acts ch. 405 (with sunset provision).)

**d. Auctions by Retail Package Stores of Wine to be Drunk Off Premises.** For the sale at auction of wine not to be drunk on the premises, to applicants which are retail package store liquor licensees licensed pursuant to Section C above. The licensed premises must be either the principal place of business or headquarters of the applicant that is legally zoned to allow such sales, or the premises of a common victualler, innholder, club or retail package store liquor licensee licensed pursuant to Sections B, C or D above. No such temporary license shall be for a duration of more than 10 consecutive calendar days and no holder shall be granted more than 2 such licenses in a calendar year. The fee charged shall not exceed the minimum fee established for holders of licenses to sell wine. The hours shall be as set by the Board but in any event shall be limited to those permitted by Section C.5. (See Section 2 of 1997 Mass. Acts ch. 153, as amended by 1998 Mass. Acts ch. 450, 2002 Mass. Acts ch. 398, 2007 Mass. Acts ch. 229, 2012 Mass. Acts ch. 405 (with sunset provision).)

#### **E.5) Alcoholic Beverages on Town Property**

Any person or entity who seeks to sell alcoholic beverages on Town property must either have a Board-issued Section 14 temporary license or a State-issued caterer's license permitting such sales.

Unless a person or entity has a Board-issued Section 14 temporary license, no alcoholic beverages may be furnished on Town property except as the Board may permit by permit. This permit requirement applies both to caterers selling alcoholic beverages under a State-issued caterer's license, and persons and entities furnishing alcoholic beverages on a non-sale basis. The Board may grant the permit to furnish alcoholic beverages on Town property after hearing, subject to such conditions as it may specify. The Board shall fix and shall specify on the permit the hours during which a permittee may furnish alcoholic beverages, but in no event shall delivery of alcoholic beverages occur between the hours of 2 a.m. and 8 a.m.

An application for a permit to furnish alcoholic beverages on Town property on a non-sale basis must be made by a person or, if an entity, an officer or duly appointed representative of the entity. Any such application shall be accompanied by an affidavit signed under the penalties of perjury by the applicant or, if the applicant is an entity, the responsible manager, stating that a) alcoholic beverages will be served free of charge to all guests over 21, b) there will be no sale of alcoholic beverages at the event or any charge imposed upon guests for alcoholic beverages, c) the event is not open to the public and tickets are not available for purchase, and d) the event is by invitation only. The Board may grant the permit to furnish alcoholic beverages on Town property if it determines that no sale of alcoholic beverages will take place at the event. In such cases, the permit shall be deemed conditional on the permittee's compliance with the factual representations recited in the affidavit.

(See Article 6.2, Town of Brookline By-Laws.)

#### **E.6) Hours and Days of Sales or Delivery**

The hours and days of sales or delivery of alcoholic beverages under any license or permit issued pursuant to this Section E are subject to Board approval based on the public need and common good. Any additional limitations. See Sections E.2-E.5 and E.13 for further limitations applicable to specific types of licenses and permits.

(See M.G.L. c. 138, § 23.)

**E.7.) On-Site Responsible Manager / Responsible Individual**

A responsible manager who is at least 21 years of age shall be physically present on the premises at all times during the day(s) and hours for which a license, , or permit is sought and granted pursuant to this Section E. He or she shall be responsible for ensuring compliance with all applicable federal, state and local laws, regulations, by-laws and conditions of the license, including, but not limited to, compliance with the prohibition against sale or delivery of alcoholic beverages to persons who are under the age of 21 years old or intoxicated. In addition, the responsible manager shall be responsible for maintaining order and decorum upon the licensed premises. In the alternative, a licensee or permittee may designate any individual who is at least 21 years of age to fulfill the responsibilities of the responsible manager (hereinafter, such designee is referred to as the “responsible individual.”).

(See M.G.L. c. 138, § 14.)

**E.8.) Minimum Age for Service of Alcohol / Service to Intoxicated Persons**

No licensee or permittee under this Section E shall permit sales or service of alcoholic beverages to persons under the age of 21 years old or who is intoxicated.

(See M.G.L. c. 138, §§ 2, 30H, 34, 69.)

**E.9.) Applications / Fees**

All applications for licenses and permits under this Section E must contain complete and truthful information. Submission of an application containing false information shall be cause for refusing the application or for suspending, canceling or revoking a license or permit already granted. No application will be accepted for filing by the Board until it is fully complete. Fees shall be payable immediately upon approval of the license or permit by the Board.

Applications for licenses and permits under this Section E shall be in writing. The applicant shall state, as for each person who will be selling or serving alcohol, the person’s age and whether or not the person has participated in an insurance industry-approved and qualified safe-service-of-alcohol training program designed for on-premises alcohol consumption to train persons serving or selling alcohol in methods of observation and detection to avoid serving or selling alcohol to intoxicated persons and/or minors (including any on-line training program of this type), and a description of the training received and the date of training. Applications shall be accompanied by documentation showing proof of this training. Applications shall also be accompanied by a description of the portion(s) of the premises where the sale, storage and/or furnishing of alcoholic beverages will take place, including a specification and description of all indoor and any outdoor portion(s) of the premises (e.g., in the case of a function, table areas, bars, dance floors, tented areas, etc.; in the case of an agricultural event, the specific premises). Applications shall also be accompanied by proof that the applicant has complied with Section A.28 (“Crowd Manager”), if applicable.

An application shall identify 1) the name of the responsible manager of the requesting organization or enterprise, and, if different, the responsible individual, 2) the responsible manager’s and any responsible individual’s 24-hour contact information, and 3) the date of birth of the responsible manager and any responsible individual. The Board may, at its discretion, require the filing of references as part of the application. The United States Citizenship of an applicant for a Section 14 temporary license or farmer-winery license shall be proven by a birth or naturalization certificate or by proof of registered voter status.

In the event that the application is for a license or permit to sell or furnish alcoholic beverages on Town property, the application shall be accompanied by proof that the applicant has the permission of any municipal board, agency or department that has jurisdiction over the Town property to use the Town property for such purpose. In addition, the application shall be accompanied by proof of the existence of a general liability policy in effect during all days and times for which a license or permit is sought, naming the Town as an additional insured (and, if any general liability policy in effect exempts alcohol-related incidents or occurrences, a liquor liability policy naming the Town as an additional insured), in a form and for an amount approved by the Town.

2014-04-09 Draft

In addition, the applicant must sign an agreement absolving the Town, its officials, officers, and employees from all liability in connection with the proposed use, agreeing to indemnify the Town for any damage to the Town's personal and real property resulting from the use, and agreeing to indemnify the Town for any expenses the Town incurs in restoring the property to its condition prior to the use (in excess of any routine cleaning and maintenance service the Town would ordinarily have performed irrespective of the use).

Applications for farmer-winery licenses under Section E.3 above shall be accompanied by proof of certification from the Massachusetts Department of Agricultural Resources that the event is an agricultural event.

All applications shall be accompanied by a fee in an amount determined by the Board.

The Board reserves the right to decline to consider any application filed later than 21 days before the proposed sale or delivery of alcoholic beverages.

(See M.G.L. c. 138, §§ 14, 15F, 70; 204 C.M.R. Part 2.01(1); Article 6.2, Town of Brookline By-Laws.)

#### **E.10.) Premises Description**

No licensee or permittee under this Section E shall keep for sale, sell, store or furnish alcoholic beverages in any part of the premises not specified on the license or permit. The Board shall specify on the license or permit the specific premises covered by the license or permit.

(See M.G.L. c. 138, §§ 2, 15F, 30H.)

#### **E.11.) Tastings**

Tastings offered by farmer-winery licensees shall be offered free of charge, may be delivered only to persons at least 21 years of age by persons at least 18 years of age, and shall be consumed in the presence of the licensee's employee, agent, representative or solicitor. Tastings offered by farmer-winery licensees shall not exceed one (1) ounce of wine and no more than 5 samples shall be served to an individual prospective customer. All other licensees under this Section E are prohibited from offering tastings.

(See 204 C.M.R. Part 4.03(1); M.G.L. c. 138, §§ 12, 15, 15F (restricting tastings).)

#### **E.12.) Section 14 Temporary Licenses – Authorized Suppliers**

No Section 14 temporary licensee may sell alcoholic beverages other than those purchased from an ABCC-licensed wholesaler or importer under Mass. Gen. Laws ch. 138, § 18, an ABCC-licensed manufacturer under Mass. Gen. Laws ch. 138, § 19, an ABCC-licensed farmer-winery under Mass. Gen. Laws ch. 138, § 19B, an ABCC-licensed farmer-brewery under Mass. Gen. Laws ch. 138, § 19C, or such other person or entity who has received from the ABCC a permit to sell alcohol under Mass. Gen. Laws ch. 138, § 22A.

(See 204 C.M.R. Part 7.05.)

#### **E.13.) Compliance with By-Laws, Policies, Procedures and Guidelines Applicable to Town Property**

All licensees and permittees under this Section E who are using Town property shall abide by all applicable Town by-laws, policies, procedures, guidelines and conditions of any municipal board, commission, agency or department with jurisdiction over the property, including any applicable School Committee policies, School Department procedures, Parks and Recreation Commission policies, Parks Department procedures, and Police Department guidelines pertaining to the application process, applicable fees, use of the property and conduct of licensees or permittees and their customers or guests.

(See Article 6.2, Town of Brookline By-Laws.)

**E.14.) Board Discretion to Deny Application to Use Town Property**

The Board may deny a request for a license or permit under this Section E if, in its opinion and after proper investigation, it appears that a public disturbance or annoyance may be created thereby, or that the public welfare, convenience or necessity will not be served thereby, or if it is not satisfied that the applicant will comply with applicable state and local laws, regulations, by-laws, or conditions on the license or permission, or applicable Town policies, procedures or guidelines.

(See Article 6.2, Town of Brookline By-Laws.)

**E.15.) Sanctions**

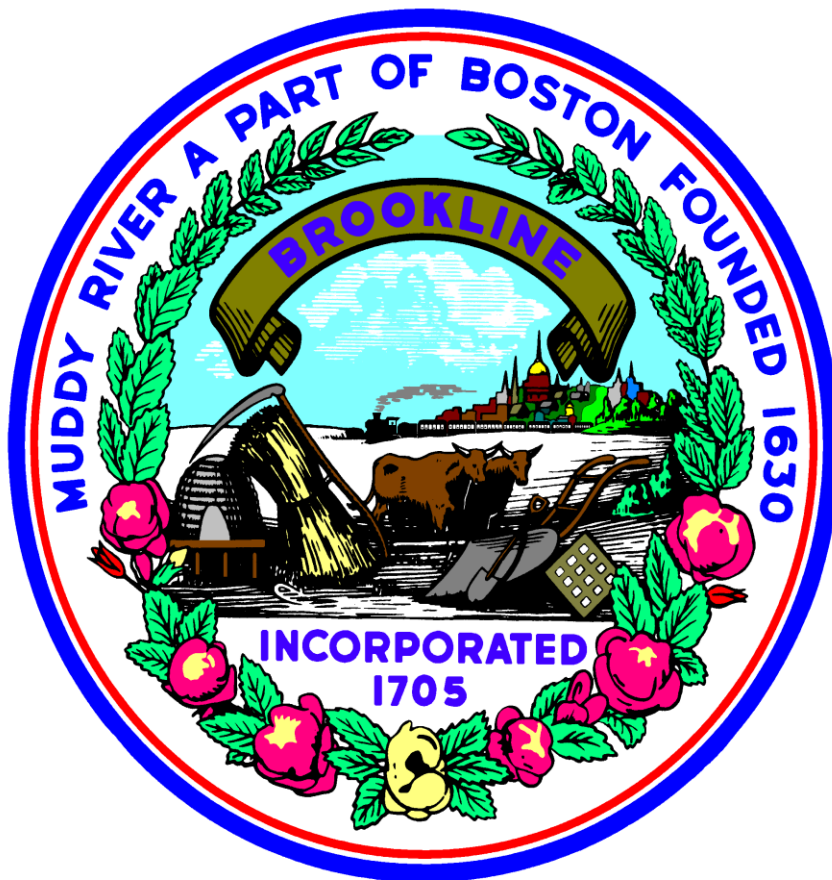
Whenever the Board opines that a licensee or permittee under this Section E has failed to comply with applicable federal, state or local laws, regulations or by-laws or conditions on the license or permit, the Board may refuse to issue or reissue to any applicant a license or permit and it may modify, suspend, cancel or revoke a license or permit already granted (in the case of farmer-winery and Section 14 temporary licenses, only after a hearing or the opportunity therefor), and shall mail notice of such modification, suspension, cancellation or revocation to the licensee or permittee.

(See M.G.L. c. 138, §§ 2, 23, 30H, 64; 204 C.M.R. Part 7.06.)



**T O W N O F B R O O K L I N E**  
**M a s s a c h u s e t t s**  
**BOARD OF SELECTMEN**

**PREPARED FOOD SALES REGULATIONS**  
**(Common Victuallers, Innholders, and Food Vendors)**



VOTED BY THE BOARD OF SELECTMEN \_\_\_\_\_, 2014

## Table of Contents

Section A. GENERAL – APPLIES TO ALL COMMON VICTUALLER, INNHOLDER, AND FOOD VENDOR LICENSES .....	4
A.1.) Applicability of Section A .....	4
A.2.) Legislative Authority / Compliance with Laws, Regulations, By-Laws and Conditions ...	4
A.3.) “Prepared Food” Defined; License to Sell Required .....	4
A.4.) Application for a License .....	4
A.5.) Transfers / Sales of Licenses .....	5
A.6.) Taxes and Charges .....	5
A.7.) Corporate and Trade Names .....	5
A.8.) Cessation of Operations / Failure to Maintain Implements and Facilities Required by Law .....	5
A.9.) Foreclosure on Loans.....	6
A.10.) Access to Premises, Inspections, and Requests for Information by the Board and its Agents .....	6
A.11.) Display of Licenses and Permits .....	6
A.12.) Occupancy .....	6
A.13.) Hours of Operation .....	6
A.14.) No Disorder, Disturbance, or Illegality on Licensed Premises .....	6
A.15.) BYOB (Applicable ONLY to Businesses WITHOUT a Liquor License) .....	6
A.16.) Cleanliness / Refuse Removal .....	7
A.17.) Restriction on Trans Fat.....	8
A.18.) Noise .....	8
A.19.) Outdoor Seating Offered By Common Victuallers and Innholders .....	8
A.20.) Discrimination Prohibited.....	9
A.21.) Sanctions.....	9
Section B. APPLIES TO BUSINESSES SELLING PREPARED FOOD FOR ON-PREMISES CONSUMPTION (COMMON VICTUALLERS AND INNOLDERS) .....	10
B.1.) Applicability of Section B .....	10
B.2.) Common Victualler or Innholder License Required .....	10
B.3.) Required Food Preparation and Service Facilities.....	10
B.4.) Premises’ Description / Required Signage.....	10
B.5.) Entertainment .....	11
B.6.) Cover Charge .....	11
B.7.) Interior Lighting/Clear View of Premises Interior.....	11
B.8.) Valet Parking .....	11

SECTION C. APPLIES TO BUSINESSES SELLING PREPARED FOOD FOR OFF-PREMISES CONSUMPTION.....	12
C.1.) Applicability .....	12
C.2.) Food Vendor License Required for Prepared Food Sales for Off-Premises Consumption .....	12
C.3.) Required Food Preparation and Service Facilities.....	12
C.4.) Outdoor Seating Limited.....	12
Section D. ADDITIONAL RULES APPLICABLE TO INNHOLDERS .....	13
D.1.) Applicability .....	13
D.2.) Innholder License Required .....	13
D.3.) Suitable Provision for Lodging of Guests .....	13
D.4.) Register .....	13

## **Section A. GENERAL – APPLIES TO ALL COMMON VICTUALLER, INNHOLDER, AND FOOD VENDOR LICENSES**

### **A.1.) Applicability of Section A**

All licenses and permits issued pursuant to Sections B, C, and D of these regulations are subject to and conditioned on compliance with the regulations contained in this Section A.

### **A.2.) Legislative Authority / Compliance with Laws, Regulations, By-Laws and Conditions**

These regulations are adopted by the Brookline Board of Selectmen (“Board”) pursuant to the provisions of the Massachusetts General Laws (“M.G.L.”), Chapter 140. Any and all licenses issued by the Board shall be governed by, and subject to the licensee’s compliance with, all applicable federal, state and local laws, regulations and by-laws, including, but not limited to, the M.G.L., these regulations, the Town of Brookline’s By-Laws, all applicable building, fire prevention, zoning, health and sanitary codes, and any conditions the Board imposes on specific licenses. Where there is conflict between these regulations and a condition on a license, the condition shall govern unless it is inconsistent with law. The Board reserves the right to modify and supplement these regulations and the conditions on any license after due notice and hearing.

### **A.3) “Prepared Food” Defined; License to Sell Required**

“Prepared food” shall include meals, hors d’oeuvres, sandwiches, soups, salads, frozen desserts, and coffee and tea as a beverage, and shall exclude packaged foods that require no preparation for consumption.

No person or business may offer prepared food for sale to the public unless duly licensed to do so pursuant to these regulations and M.G.L. c. 140. This requirement shall not apply to vendors selling prepared food on a one-day basis or for special events (for which separate approval may be required), including charitable and non-profit fundraisers. In addition, this requirement does not apply to vendors associated with the Brookline Farmer’s Market (however, such vendors must register with the Brookline Health Department).

### **A.4.) Application for a License**

All applications must contain complete and truthful information. Submission of an application containing false information shall be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Board until it is fully complete. Filing fees shall be payable prior to processing of an application. Annual license fees shall be payable immediately upon approval of the license by the Board. All filing fees and license fees shall be paid by certified check. Filing fees are non-returnable once an application has been accepted by the Board. License fees shall not be prorated and are not refundable.

No person or entity shall obtain or renew a license unless the applicant can demonstrate proof of a legal right to the licensed premises for the term of the license, such as ownership papers, tenancy documents, or a management contract.

Applications for a license shall be accompanied by a food and beverages menu and a general description of the operations. The description of the operations shall include operations related to any delivery service provided, including the delivery hours, mode of transportation used, and parking arrangements for any vehicle used. Applications for renewal of such licenses shall be accompanied by a description of any significant change in operations (such as changes to hours of food and alcoholic beverages service, and significant changes to the food and beverages menu and entertainment offerings).

2014-04-09 Draft

Applications shall be accompanied by a description of a plan for the control and elimination of litter that complies with Section A.16.

Application and license fees shall be in an amount established by the Board pursuant to M.G.L. c. 40, s. 22F.

The Board shall consider the public good and the general welfare and convenience of the community in determining whether or not to grant a request for a new license. In considering whether the public good would be served, the Board may consider the number and location of existing licenses, the sort of operation proposed, whether the premises are equipped with the necessary implements and facilities for cooking, preparing and furnishing the proposed menu to the public, the qualifications of the applicant, the method of operations of the applicant including methods related to cleanliness and proper sanitation, any impact on the community with respect to matters such as noise, traffic, congestion, odors, sanitary and/or nuisance conditions, waste disposal requirements and facilities, parking, dust and fumes, the impact on the character of the neighborhood and the Town, and whether any articulable harm would follow from the granting of the license. Prior to issuing a license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, Building Department, and Planning Department, as appropriate, and shall hold a hearing on the application.

The Board may deny an application for renewal of a license where there is cause for doing so. Prior to issuing a renewed license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, and Building Department, as appropriate.

The licensee's failure to comply with any federal, state or local law, regulation, or by-law shall be cause for denial of the application.

(See M.G.L. c. 140, §§ 2, 5, 6; Articles 5.7 and 8.10 of the Town of Brookline By-Laws; *Liggett Drug Co. v. Board of License Commrs. of City of N. Adams*, 296 Mass. 41 (1936); *McDonald's Corp. v. Town of E. Longmeadow*, 24 Mass. App. Ct. 904 (1987); *Ballarin v. Licensing Bd. of Boston*, 49 Mass. App. Ct. 506 (2000).)

#### **A.5.) Transfers / Sales of Licenses**

No licensee may transfer to another person or entity any license issued pursuant to these regulations, except upon application to and approval by the Board of the transfer. Any such transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.

#### **A.6.) Taxes and Charges**

All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the town from any fee, charge or tax, which balance is at least six months past due.

(See M.G.L. c. 40, § 57 (adopted by the Town in November 1995); Article 4.7 of the Town of Brookline By-Laws; 1986 Mass. Acts ch. 316.)

#### **A.7.) Corporate and Trade Names**

No licensee shall assume obligations for a licensed premise or conduct business under any corporate or trade name (DBA) other than that stated on the license. Any change in corporate name or status or any change in trade name (DBA) from that the Board previously approved shall require the prior approval of the Board.

#### **A.8.) Cessation of Operations / Failure to Maintain Implements and Facilities Required by Law**

If, in the opinion of the Board, a licensee ceases to be engaged in the business it is licensed to pursue, or fails to maintain upon his premises the necessary implements and facilities for cooking, preparing and serving food to the public (in the case of common victuallers and innholders) or the rooms, beds and bedding required by law (in the case of innholders), the Board shall immediately revoke its license.

2014-04-09 Draft

(See M.G.L. c. 140, §§ 6, 9.)

**A.9.) Foreclosure on Loans**

Assignment of stock in incorporated licensed places for the purpose of safeguarding the assignee on loans gives no right to such assignee to conduct the business of the licensee; therefore, licensees must notify the Board immediately when the assignee forecloses under such assignment of stock.

**A.10.) Access to Premises, Inspections, and Requests for Information by the Board and its Agents**

The licensed premises shall be subject to inspection by the Board or its agent, including the Police and other inspectional departments. Annual inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints or non-compliance issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re-inspection fees.

(See M.G.L. c. 140, §§ 3, 25.)

**A.11.) Display of Licenses and Permits**

All licenses and permits issued by the Town pursuant to these regulations shall be displayed on the premises in a conspicuous place where they can be easily read.

**A.12.) Occupancy**

No licensee shall vary the occupancy of the licensed premises as certified by the Building Department.

**A.13.) Hours of Operation**

The hours of operation (including of any food delivery service provided) shall be restricted to those set by the Board. No patrons shall be on the premises except during the hours permitted by the Board. No food shall be sold between the hours of 2:00 a.m. and 5:30 a.m. except by special permit by the Board, which shall remain in effect for a period of one year. Application for such special permit shall be made on forms supplied by the Board and shall be accompanied by a non-refundable fee set by the Board.

(See Article 8.7 of the Town of Brookline By-Laws.)

**A.14.) No Disorder, Disturbance, or Illegality on Licensed Premises**

No licensee shall permit any disorder, disturbance, or illegality of any kind on the licensed premises.

**A.15.) BYOB (Applicable ONLY to Businesses WITHOUT a Liquor License)<sup>1</sup>**

This Section A.15 of these regulations applies only to businesses that do NOT have a liquor license to sell alcoholic beverages.

All licensees that choose to permit patrons to bring their own alcoholic beverages onto the premises (a practice known as "bring your own bottle," or "BYOB") shall be subject to the following regulations:

- a) Licensees shall not permit consumption of alcoholic beverages by a person who is intoxicated. Licensees shall not permit consumption of alcoholic beverages by a person who is under 21 years of age. Any licensee who reasonably relies on the following forms of identification for proof of age shall not thereby subject its license to modification,

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<sup>1</sup> **Businesses WITH a liquor license may NOT permit patrons to bring their own alcoholic beverages onto the premises pursuant to the Town of Brookline's Sale of Alcoholic Beverages Regulations.**

suspension, revocation or cancelation: i) a valid Massachusetts motor vehicle driver's license with photograph; ii) a valid Massachusetts Liquor Purchase Identification Card, iii) a valid Massachusetts identification card issued by the Registry of Motor vehicles pursuant to M.G.L. c. 90, § 8E, iv) a valid passport or passport card issued by the United States government, or a valid passport issued by a government of a foreign country recognized by the United States government, or v) a valid United States-issued military identification card. Additionally, a licensee who sells alcohol to an under-aged person may be subject to sanction against the license in the event the licensee relied on proof of age other than one of the forms of identification enumerated in this Section.

- b) The Manager, any Alternate Manager(s), and all servers must participate in a safe-service-of-alcohol training program designed for restaurants to train persons in methods of observation and detection of intoxicated persons and the prevention of consumption of alcoholic beverages by intoxicated persons and/or minors. Only insurance industry-approved and qualified training programs will satisfy this training requirement. All Managers and Alternate Managers must receive in-person training in order to be employed as a Manager or Alternate Manager. Non-Managerial employees must be trained within fourteen (14) days of employment by the licensee, and may satisfy this training requirement through on-line training. All persons subject to this training requirement must be retrained every three years in the manner specified by this Section for that position. The licensee shall maintain on the licensed premises and make available for inspection at all times a copy of the certification card and other proof showing that each person subject to this training requirement has been trained in the manner specified by this Section within the prior three (3) years.
- c) Licensees shall not permit their managers or employees to consume alcoholic beverages while on duty.
- d) Licensees shall not permit consumption of alcoholic beverages from a pitcher or carafe or in any container or glass the capacity of which is in excess of sixteen fluid ounces.
- e) Licensees shall not permit drinking games.
- f) Licensees shall post conspicuously a copy of the penalties set forth in Massachusetts General Laws chapter 90, § 24(1) for operating a motor vehicle under the influence of alcohol in the form that such posting is distributed by the Massachusetts Alcoholic Beverages Control Commission (ABCC).
- g) Licensees shall post conspicuously a copy of the penalties set forth in Massachusetts General Laws Chapter 90, Section 24I, for operating a motor vehicle while drinking from an open container in the form that such posting is distributed by the Massachusetts Alcoholic Beverages Commission (ABCC).
- h) Licensees shall not pour or otherwise handle the alcoholic beverages a customer brings onto the licensed premises. Nothing in this Section shall prohibit a licensee from discarding an empty or abandoned alcoholic beverages container or its contents.
- i) Licensees shall not charge a "corkage fee" or any other fee or surcharge for permitting BYOB or providing any service or amenities relative to BYOB.
- j) Licensees shall notify the Board of Selectmen's Office of their policy permitting BYOB no later than thirty (30) days before implementing such policy, except that licensees permitting BYOB as of the date of the adoption of this regulation shall notify the Board of Selectmen's Office within thirty (30) days of this regulation's adoption.

#### **A.16.) Cleanliness / Refuse Removal**

All licensed premises shall be maintained in a clean and sanitary condition.

All licensees that prepare food for sale or service to the public shall provide and maintain a sufficient number of closed receptacles, such as dumpsters, for the storage of all refuse on the premises, and

2014-04-09 Draft

shall maintain them in accordance with the regulations and conditions of the Brookline Health Department, the Department of Public Works, and the Board of Selectmen. All refuse generated by such licensees on the licensed premises shall be stored in such covered receptacles. The covered receptacles shall be constructed and maintained so that refuse is kept within the receptacle and is not blown or otherwise removed from it by wind, animals or other cause, other than for removal by authorized persons.

All licensees that prepare food for consumption on or off the premises shall provide for the removal of all refuse from the premises during each day of operation, and shall not permit refuse to remain on the premises for more than twenty-four hours. All other licensees shall remove refuse a minimum of twice each week, and more often if necessary to prevent any nuisance conditions.

(See Article 8.8 of the Town of Brookline By-Laws.)

#### **A.17.) Restriction on Trans Fat**

All licensees shall comply with the provisions of the Town's By-Law regarding restrictions on the use of trans fat. (See Article 8.28 of the Town of Brookline By-Laws.)

#### **A.18.) Noise**

All licensees shall comply with all provisions of the Town of Brookline's Noise By-Law, including, but not limited to, with respect to entertainment, outdoor seating areas, exterior fans, vents and equipment, and delivery and loading areas and activity. (See Article 8.15 of the Town of Brookline By-Laws.)

#### **A.19) Outdoor Seating Offered By Common Victuallers and Innholders<sup>2</sup>**

The Board may, upon written application and after notice and hearing, grant, upon such terms and conditions as it determines to be necessary and desirable, the right to use the outdoor portion of the licensed premises (such as patios and other outdoor areas), and/or a portion of a town sidewalk, that is contiguous to the licensed premises for outside seating for patrons during such periods of time as may be permitted by Town By-Law and as the Board may approve. Licensees may not make outdoor seating available to patrons after 11 p.m. unless and except as may be specifically approved by the Board. In considering requests for outdoor service areas, the Board shall evaluate whether or not the proposed outdoor dining is safe and sanitary, whether or not it would create a public nuisance and how the viewing and monitoring of the outside portion from the inside of the premises will be achieved. In these regards, the Board may consider factors including, but not limited to, the type of neighborhood at issue, the potential for noise in the environs, any impact on the flow of pedestrian traffic on the public sidewalk, and the handling of waste and spills. Prior to issuing such a grant, the Board shall seek advisory reports from the Planning Department, Building Commissioner, Police Department, Health Department, Fire Department, and Commissioner of Public Works, as applicable. No such grant shall extend beyond the term of the license. The Board may revoke any such grant if the exercise of the grant interferes with the public safety and convenience. In the event the licensed premises extends to a portion of the Town sidewalk, the licensee agrees to absolve the Town from any liability, and to indemnify the Town for any expenses or damages, relating to the licensee's use of the Town sidewalk, and to maintain a general liability policy naming the Town as an additional insured in an amount specified by the Board. All outdoor seating areas are required to be posted "No Smoking" as required by Town By-Laws.

Town-licensed establishments that have outdoor seating in the City of Boston must comply with all Town by-laws, regulations, rules and conditions. Establishments that are considering offering outdoor seating in the City of Boston must so inform the Board in writing.

An application to extend the licensed premises outside of the licensed establishment shall describe the area in detail, including the dimensions, the number of tables and chairs, any bar(s) area, any cooking and food preparation and/or storage area, and the occupancy figures for inside and outside

<sup>2</sup> See Section C.4, "Outdoor Seating Limited," for outdoor seating requirements applicable to food vendors.



2014-04-09 Draft

service areas. Adequate exits to the public way from the outdoor area must be maintained at all times; in no case shall patrons be required to re-enter the building in order to exit in an emergency situation. The outdoor area must not impede egress from the facility. Existing restroom facilities must be adequate to not only service the existing facility but the additional patrons in the outside seating area as well.

No licensee may offer outdoor seating except as the Town may permit pursuant to the above, unless otherwise stated on the license.

(See Article 8.10.8 of the Town of Brookline By-Laws.)

#### **A.20.) Discrimination Prohibited**

No licensee shall engage in unlawful discrimination on the basis of race, color, national origin, creed, disability, sex, sexual orientation, or ancestry.

(See M.G.L. c. 272, §§ 92A, 98.)

#### **A.21.) Sanctions**

In the event that the Board finds, after hearing or reasonable opportunity therefor, that a licensee has failed to comply with any federal, state or local law, regulation or by-law, or with any condition imposed on the license, the Board shall take such action as it deems appropriate and as conforms with applicable law, including, but not limited to, the imposition of additional conditions on the license and/or on any of the licensee's other licenses (such as an entertainment license), a reduction in hours (subject to any applicable legal restrictions), a modification of any license, a suspension of any license of from one (1) to ninety (90) days, a non-renewal of any license, or revocation, forfeiture, or cancellation of any license.

In determining the appropriate sanction to be imposed on the licensee, the Board shall consider all factors it deems relevant, which may include, but are not limited to: the past history of findings of violation(s); the severity of the offense and egregiousness of the facts alleged; the culpability of the licensee and/or its manager(s), employee(s) and agent(s) (including the extent to which it had established and followed procedures to prevent such violations); the extent of any threat to public safety and to the public good; any steps by the licensee to remedy the violation and to prevent any reoccurrence; and any other additional factors deemed relevant by the Board.

Upon the Board's suspension, revocation, cancellation, forfeiture, or refusal to renew a license, the holder shall physically surrender the license to the Office of the Board at a date and time determined by the Board.

In addition, a violation of these regulations may be subject to non-criminal disposition under Article 10.3 of the Town's By-Laws. After providing the licensee with a hearing or reasonable opportunity therefor and the opportunity to cure the violation, the Police Department is authorized to implement and enforce Article 10.3 without further action by the Board with respect to Section A.15 (BYOB) of these regulations. The Police Department's enforcement of Section A.15 through imposition of a penalty pursuant to Article 10.3 shall not prevent or estop the Board from taking other or additional action against the licensee for the same charged violation.

(See M.G.L. c. 140, §§ 9, 30; Articles 8.10 and 10.3 of the Town of Brookline By-Laws.)

## **Section B. APPLIES TO BUSINESSES SELLING PREPARED FOOD FOR ON-PREMISES CONSUMPTION (COMMON VICTUALLERS AND INNOLDERS)**

### **B.1.) Applicability of Section B**

This Section B applies to common victuallers and innholders offering for sale to the public prepared food for on-premises consumption, except as otherwise provided by Section A. Innholders must also comply with Section D below.

All licenses issued by the Board under this Section B are subject to and conditioned on the licensee's compliance with the regulations contained in this Section B and in Section A.

### **B.2.) Common Victualler or Innholder License Required**

No person or business shall offer for sale to the public prepared food for on-premises consumption except as may be permitted by a common victualler license (in the case of restaurants) or an innholder license (in the case of hotels) issued by the Board.

### **B.3.) Required Food Preparation and Service Facilities**

Common victualler and innholder licenses may be issued only to persons and businesses offering for sale to the public prepared foods for on-premises consumption that have adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons. Common victuallers and innholders must provide indoor seating for on-premises consumption of food year around. The Board shall not grant any license until after it or its authorized agent has conducted an examination of the premises and determined that the business satisfies the requirements for a restaurant or innholder. No license shall be renewed unless the licensee has satisfied the Board that it is in good faith operating a restaurant or hotel and has the proper equipment for the service of food.

(See M.G.L. c. 140, §§ 2, 6)

### **B.4.) Premises' Description / Required Signage**

Every license issued under this Section B shall specify the street and number, if any, of the building where the business is to be carried on or give some other particular description of it, and the license shall not protect a license who carries on his business in any other place. Every licensee shall affix a board to or near the exterior of its premises in a conspicuous place with its name inscribed thereon in large letters. Applicants must comply with the provisions of the Town of Brookline's Sign By-Law.

No new license shall issue until an applicant has submitted to the Board and obtained the Board's approval of a description, illustration, and/or detailed plan of the premises (drawn to scale as may be necessary) describing the placement of waiting areas, tables, chairs, stools, fixed seating, booths, service counters or bars, standing only areas, entertainment areas, dance floors, kitchen facilities, bathrooms, hallways, rooms, railing partitions and other barriers, entrances and exits, and interior doors, and describing the premises' signage and any other exterior decorations or features. Innholders shall also obtain the Board's approval of a plan showing the proposed suitable rooms for the lodging of guests.

Where there are no premises actually in existence at the time of an application, the applicant shall submit with its application a detailed description as described above, describing the premises proposed to be constructed.

A licensee must apply for and obtain the Board's approval prior to making any a) structural change to the premises, b) physical change that results in an increase in seating capacity, and c) physical change to the premises pertaining to the placement of tables, chairs, stools, fixed seating, booths, service counters or bars, entertainment areas, dance floors, kitchen facilities, bathrooms, hallways, rooms, railing partitions and other barriers, entrances and exits, interior doors, and signage and any other exterior decorations or features. An application for any such physical change shall be

**2014-04-09 Draft**

accompanied by a description, illustration and/or detailed plan (drawn to scale as may be necessary) describing the premises with such proposed changes.

Prior to their approval by the Board, the Building Commissioner shall approve all plans contemplated by this Section B.5.

The Board may suspend, cancel or revoke a license in the event it determines that the licensee constructed or made changes to the premises in violation of this Section B.5.

(See M.G.L. c. 140, §§ 4, 6, 18; Article 5.8 of the Town of Brookline By-Laws.)

**B.5.) Entertainment**

No forms of entertainment, including but not limited to radio, television, recorded or live music, dancing, or video or electronic games, shall be allowed without first obtaining an entertainment license from the Board. Entertainment shall not be conducted on the premises outside of the hours specified by the entertainment license.

**B.6.) Cover Charge**

No licensee shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided that no licensee shall require a person under thirteen years of age to pay a minimum charge or cover charge.

(See M.G.L. c. 140, § 183D.)

**B.7.) Interior Lighting/Clear View of Premises Interior**

All licensees shall keep the licensed premises lighted in a manner sufficient for the safety of the patrons and in a manner sufficient for the Board or its agents to make observations at the premises without the need to identify themselves or seek assistance. Unless otherwise approved by the Board, no licensee shall maintain any curtain, screen, booth, stall or other device such that persons within cannot be plainly seen by other persons within the licensed premises.

(See M.G.L. c. 272, § 25.)

**B.8.) Valet Parking**

Unless a licensee wishes to operate a valet service exclusively on private property, licensees are required to obtain a Valet Permit from the Transportation Board in order to offer any valet service that utilizes the public way.

(See Article V, Section VII of the Brookline Transportation Board Rules and Regulations.)

## **SECTION C. APPLIES TO BUSINESSES SELLING PREPARED FOOD FOR OFF-PREMISES CONSUMPTION**

### **C.1.) Applicability**

All licenses issued by the Board under this Section C are subject to and conditioned on the licensee's compliance with the regulations contained in this Section C and in Section A. This Section C does not apply to businesses to which the Town's Mobile Food Vendor Regulations apply. Businesses selling prepared food to the public that offer indoor seating for on-premises consumption are subject to Section B of these regulations, and not to this Section C.

### **C.2.) Food Vendor License Required for Prepared Food Sales for Off-Premises Consumption**

No person or business shall offer for sale to the public prepared food for off-premises consumption except as may be permitted by a food vendor license issued by the Board.

Food vendors must have on their premises the necessary implements and facilities for cooking, preparing and furnishing food to the public.

(See Articles 5.7 and 8.10 of the Town of Brookline By-Laws.)

### **C.3.) Required Food Preparation and Service Facilities**

Food vendor licenses may be issued only to persons and businesses offering for sale to the public prepared foods for off-premises consumption that have adequate and sanitary kitchen equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons. The Board shall not grant any license until after it or its authorized agent has conducted an examination of the premises and determined that the business satisfies the requirements for a food vendor. No license shall be renewed unless the licensee has satisfied the Board that it is in good faith operating as a food vendor and has the proper equipment for the service of food.

(See Article 8.10 of the Town of Brookline By-Laws.)

### **C.4.) Outdoor Seating Limited**

Food vendors may not offer dedicated outdoor seating unless they have bathroom facilities available to patrons, or a waiver from the State Plumbing Board excusing the food vendor from this bathroom requirement. Food vendors with bathroom facilities for patrons or a State Plumbing Board waiver may apply to the Town for permission to offer outdoor seating. The procedures and requirements of Section A.19 of these regulations apply to outdoor seating offered by food vendors.

**Section D. ADDITIONAL RULES APPLICABLE TO INNHOLDERS****D.1.) Applicability**

This Section D applies to persons and businesses offering for sale to the public provision for the lodging of guests at their request who offer for sale to the public prepared food for on-premises consumption. All licenses issued by the Board under this Section D are subject to and conditioned on compliance with the regulations contained in this Section D and in Section A.

**D.2.) Innholder License Required**

No person or business offering for sale to the public food for on-premises consumption shall offer for sale to the public lodging except as may be permitted by an innholder license granted by the Board.

(See M.G.L. c. 140, § 2.)

**D.3.) Suitable Provision for Lodging of Guests**

Every innholder shall have upon its premises suitable rooms, with beds and bedding, for the lodging of guests.

(See M.G.L. c. 140, § 5.)

**D.4.) Register**

Every innholder shall keep, in permanent form, a register in which shall be recorded the name and residence of every person engaging or occupying a private room for any period of the day or night, together with a record of the room assigned to such person and of the day and hour when such room is assigned. Such register shall be retained by the innholder for a period of at least one year after the date of the last entry and shall be open to inspection by the Board and its agents.

(See M.G.L. c. 140, § 27.)



# Memorandum

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**To:** MELVIN KLECKNER, TOWN ADMINISTRATOR  
**From:** PATRICK JOSEPH WARD, TOWN CLERK  
**Date:** 4/15/2014  
**Re:** ANNUAL TOWN ELECTION WARRANT

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Attached, please find an electronic of the Annual Town Election Warrant for May 6, 2014. This warrant must be signed by the Board of Selectmen and published and posted not later than seven days prior to the date of the Annual Town Election (April 29, 2014).

**COMMONWEALTH OF MASSACHUSETTS  
PATRICK JOSEPH WARD  
TOWN CLERK**

**SS. Norfolk**

To either of the Constables of the Town of Brookline

**GREETINGS:**

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said town who are qualified to vote in Elections to vote at Precincts 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15 and 16

Precinct 1 Wheelock College, 43 Hawes Street (Monmouth Street Entrance)  
Precinct 2 Coolidge Corner Branch Library, 31 Pleasant Street  
Precinct 3 Theresa Morse Apartments, 90 Longwood Avenue  
Precinct 4 Town Hall, 333 Washington Street, Room 103  
Precinct 5 (New) Lincoln School, 19 Kennard Road  
Precinct 6 BHS Schluntz Gymnasium, 115 Greenough Street  
Precinct 7 Arthur A. O'Shea House, 61 Park Street  
Precinct 8 Devotion School Gymnasium, (Stedman Street Entrance)  
Precinct 9 Brookline Senior Center, 93 Winchester Street  
Precinct 10 John W. Kickham Apartments, 190 Harvard Street  
Precinct 11 Driscoll School, New Gymnasium (Washington Street Entrance)  
Precinct 12 Runkle School Gymnasium, 50 Druce Street (Front Entrance)  
Precinct 13 Runkle School Gymnasium, 50 Druce Street (Front Entrance)  
Precinct 14 Heath School Gymnasium, 100 Eliot Street  
Precinct 15 Fire Station #6, 962 Hammond Street  
Precinct 16 Putterham Branch Library, 959 West Roxbury Parkway

On **TUESDAY, THE SIXTH DAY OF MAY, 2014** from 7:00 a.m. to 8:00 p.m. for the following purpose:

To cast their votes in the Town Election for the candidates for the following offices:

TWO SELECTMEN.....	FOR THREE YEARS
FOUR TRUSTEES OF THE PUBLIC LIBRARY.....	FOR THREE YEARS
THREE MEMBERS OF THE SCHOOL COMMITTEE.....	FOR THREE YEARS
ONE HOUSING AUTHORITY COMMISSIONER.....	FOR FIVE YEARS

**ALSO**

FIVE TOWN MEETING MEMBERS	FOR THREE YEARS
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In Precincts 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15 and 16



## 21. - 3

THREE TOWN MEETING MEMBERS

FOR ONE YEAR

In Precinct 11

TWO TOWN MEETING MEMBERS

FOR ONE YEAR

In Precinct 8

ONE TOWN MEETING MEMBER

FOR TWO YEARS

In Precincts 1 and 14

ONE TOWN MEETING MEMBER

FOR ONE YEAR

In Precincts 1, 5, 10 and 15

Hereof fail not and make return this warrant with your doings thereon at the time and place of said voting.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_ 2014.  
(month)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Selectmen of the Town of Brookline

